# TRANSCRIPT OF RECORD

## SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, [redacted] 1926

No. [redacted] 68

QUON QUON POY, APPELLANT,

*vs.*

JOHN P. JOHNSON, U. S. COMMISSIONER OF IMMIGRATION AT THE PORT OF BOSTON, MASS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

FILED APRIL 18, 1926

(31,038)

# (31,038)

# SUPREME COURT OF THE UNITED STATES

## OCTOBER TERM, 1925

# No. 364

QUON QUON POY, APPELLANT,

*vs.*

JOHN P. JOHNSON, U. S. COMMISSIONER OF IMMIGRATION AT THE PORT OF BOSTON, MASS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

INDEX


| | Original | Print |
|---|---|---|
| Record from the district court of the United States, district of Massachusetts | 1 | 1 |
| Caption (omitted in printing) | 1 | 1 |
| Petition for writ of habeas corpus | 2 | 1 |
| Marshal's return to summons | 5 | 2 |
| Minute entry of order granting petition for writ of habeas corpus | 5 | 3 |
| Writ of habeas corpus | 5 | 3 |
| Marshal's return to writ of habeas corpus | 6 | 4 |
| Respondent's return to writ of habeas corpus | 7 | 4 |
| Memorandum re record of proceedings before the U. S. Immigration Board | 8 | 5 |
| Submission of cause | 8 | 5 |
| Judgment | 8 | 5 |
| Bill of exceptions and order settling same | 9 | 5 |
| Petition for appeal and assignments of error | 12 | 7 |
| Recognizance | 14 | 9 |
| Bond on appeal (omitted in printing) | 16 | 10 |
| Citation and service (omitted in printing) | 17 | 10 |
| Clerk's certificate | 19 | 10 |


JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., NOVEMBER 23, 1925

[fol. 1] [Caption omitted]

[fol. 2] **IN UNITED STATES DISTRICT COURT, DISTRICT OF MASSACHUSETTS**

PETITION FOR WRIT OF HABEAS CORPUS—Filed November 7, 1924

I. The petitioner, Quon Quon Poy, respectfully shows that he is an American citizen and that he is the son of Quon Mee Sing of Boston in said District, who was born in the United States.

II. That your petitioner is restrained of his liberty by one John P. Johnson, who is United States Commissioner of Immigration at the port of Boston in said District, and that he is so confined and restrained at said Boston, and that the cause and pretence of his aforesaid confinement and restraint is that the said Quon Quon Poy being of Chinese descent and being an applicant for admission to the United States as the son of a native born American citizen has been refused admission.

III. That the citizenship of the said Quon Mee Sing has been duly established and is admitted to be a fact by the United States Bureau of Immigration and the Department of Labor.

IV. That your petitioner appealed to the Secretary of Labor from a so-called decision of a Board of Inquiry which, as he is informed, was not satisfied as to the alleged relationship of your petitioner to Quon Mee Sing, and he is informed that his appeal has been dismissed and an order for deportation of your petitioner has been made.

V. That your petitioner being the minor son of a citizen of the United States was not accorded a fair trial as to his relationship and citizenship by the Department of Labor, its officers and agents; that he was not allowed to see counsel or friends; that his counsel was not permitted to be present at or to participate in the examination of [fol. 3] the petitioner or his witnesses, nor to know what the petitioner had testified, nor what the evidence was until the record had been closed and a conclusion reached adverse to the petitioner, and at that point, for the first time his counsel was allowed to see the evidence.

VI. That your petitioner, his case, and the evidence of his witnesses was not heard by a Board of Special Inquiry as required by Section 17 of the Immigration Act of February 5, 1917, but that each and every witness was heard and testified before a single Inspector only, and your petitioner was denied the fair hearing provided for in said Act.

VII. That your petitioner was not advised of his right under the law to have one friend or relative present at his hearing until all of the testimony had been heard; that the waiver, so-called, and assent to the unlawful proceedings at his hearing, was exacted from

— without advice as to his rights, he being a minor, without the assistance of counsel and ignorant of his rights.

VIII. That your petitioner was unlawfully denied admission as an alien afflicted with hook worm infection without advice as to his rights as to admission for treatment, and his right under the law as a son of a citizen to be admitted without detention for treatment.

IX. That you petitioner claims his right as a citizen of the United States under section 1993 of the Revised Statutes of the United States to a fair trial and a fair opportunity to establish his citizenship, and says that having been denied such trial and opportunity as aforesaid by Immigration authorities he is entitled to an adjudication by this court as to the unjust procedure of the Department of Labor in his case, and as to the relationship of your petitioner to his father, Quon Mee Sing.

X. That your petitioner denies the right of the Department of Labor under section I of the Act of February 5, 1917, to declare him [fol. 4] an alien without fair hearing in accordance with due process of law, and says the procedure in his case was not in accord with that due process of law to which he is entitled under the Constitution of the United States, and claims that by reason of his birth many years before the enactment of said law to wit, February 10, 1910, and before the promulgation of the rules and regulations of the Department of Labor pursuant thereof the denial of admission to the United States under the procedure in this case is not warranted by law and is an unlawful denial of his rights under the laws and the Constitution of the United States.

Wherefore your petitioner prays a writ of habeas corpus to the end that your petitioner may be forthwith brought before the court to do, submit to and receive what the law may require, and asks that a warrant immediately issue to stay the deportation of your petitioner as aforesaid and bring him before the court to the end that *me* may be bailed.

Quon Quon Poy, by Warren Ozro Kyle, of Counsel for Petitioner. Quon Mee Sing.

*Duly sworn to by Quon Mee Sing. Jurat omitted in printing.*

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[fol. 5] IN UNITED STATES DISTRICT COURT

MARSHAL'S RETURN TO SUMMONS

Upon the filing of this petition, a summons was issued to John P. Johnson, United States Commissioner of Immigration, at Boston, in the District of Massachusetts, to appear before said court on Monday, the seventeenth day of November, 1924, at two o'clock P. M., to show cause, if any he had why a writ of habeas corpus should not issue for the body of Quon Quon Poy, and the Marshal made a return upon said summons as follows:

UNITED STATES OF AMERICA,
Massachusetts District, ss:

Boston, November 8th, 1924.

Pursuant hereunto I have this day summoned the within named John P. Johnson to appear before this District Court of the United States, as within directed by giving in hand at East Boston, in said District, a true copy of the within summons to show cause.

William J. Keville, U. S. Marshal, by Everett S. Pevear, Deputy U. S. Marshal.

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IN UNITED STATES DISTRICT COURT

MINUTE ENTRY OF ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS

At the same term, to wit, November 24, 1924, this cause came on to be heard on said petition, the Honorable James A. Lowell, District Judge, sitting, and it was ordered that the petition be granted, and on the 26th day of said November, the following writ of habeas corpus issued accordingly:

IN UNITED STATES DISTRICT COURT

WRIT OF HABEAS CORPUS

UNITED STATES OF AMERICA,
Massachusetts District, ss:

[L. S.]

The President of the United States of America to John P. Johnson, Commissioner of Immigration at Boston, in said district, Greeting:

We command you that the body of Quon Quon Poy, by you restrained of his liberty, as it is said, you take and have before our Judge of our District Court of the United States at the United States Court House in Boston, in said District, on Monday, the first day of December, next, at 2 o'clock, P. M., to do and receive what our said [fol. 6] Court shall then and there consider concerning him in this behalf, and then and there show cause (if any you have), of the taking and detaining of the said Quon Quon Poy.

And have you there this writ with your doings therein.

Witness, the Honorable James M. Morton, Jr., at Boston aforesaid, the twenty-sixth day of November, in the year of our Lord one thousand nine hundred and twenty four.

Frank H. Mason, Deputy Clerk.

IN UNITED STATES DISTRICT COURT

MARSHAL'S RETURN TO WRIT OF HABEAS CORPUS

UNITED STATES OF AMERICA,
Massachusetts District, ss:

November 26th, 1924.

Pursuant hereunto I have this day summoned the within named John P. Johnson by giving in hand at East Boston, in said District a true copy of the within habeas corpus.

William J. Keville, U. S. Marshal, by Everett S. Pevear, Deputy.

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[fol. 7] IN UNITED STATES DISTRICT COURT

RESPONDENT'S RETURN TO WRIT OF HABEAS CORPUS—Filed December 11, 1924

Now comes John P. Johnson, and in answer and return to the writ admits that he is the United States Commissioner of Immigration, at the port of Boston, and further admits that he has custody of an alien Chinese person, to wit, one Quon Quon Poy, but said John P. Johnson, traverses and denies that said Quon Quon Poy is restrained and illegally held by the said John P. Johnson, or that he is confined or restrained of his liberty arbitrarily or without warrant of law for that the said Quon Quon Poy is the same person named in an excluding decision rendered by a Board of Special Inquiry at said port of Boston, under date of October 1, 1924, which said Board of Special Inquiry was duly and legally appointed by and under the authority of the United States Immigration Laws and the Chinese Exclusion Law and Treaty to hear and consider the application of the said Quon Quon Poy for admission to the said United States; that regular and legal hearings were held by the said Board of Special Inquiry for the said purpose; that the said Board of Special Inquiry found that the applicant was not entitled to enter the said United States and rendered a decision excluding him therefrom in accordance with the said Immigration Laws, the Chinese Exclusion Law and Treaty and the laws and Constitution of the said United States; that an appeal was taken from the decision of the said Board of Special Inquiry to the Honorable Secretary of Labor of the said United States; that the said Secretary of Labor duly and legally sustained the finding and decision of said Board of Special Inquiry and dismissed the appeal, rendering an opinion affirming the excluding decision of the Board of Special Inquiry.

Further answering the respondent denies each and every allegation and statement in the petition for said writ.

The record of the proceedings is incorporated herein by reference.

John P. Johnson, Commissioner of Immigration.

[fol. 8] COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

December 26, 1924.

Subscribed and sworn to before me.
William H. Nitz, Notary Public. My commission expires Dec. 22, 1926. (Seal.)

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IN UNITED STATES DISTRICT COURT

MEMORANDUM RE RECORD OF PROCEEDINGS BEFORE THE U. S. IMMIGRATION BOARD

(MEMORANDUM.—By direction of counsel, the Record of the Proceedings before the U. S. Immigration Board, at Washington, D. C., referred to in the foregoing respondent's return to the writ, is transmitted as an original and accompanies this Transcript of Record on Appeal to the United States Supreme Court. James S. Allen, Clerk.)

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IN UNITED STATES DISTRICT COURT

SUBMISSION OF CAUSE

On the said 11th day of December, said cause comes on to be heard and is fully heard by the court, the Honorable James A. Lowell, District Judge, sitting, and on the sixteenth day of said December, the following order of court is entered, dismissing petition:

IN UNITED STATES DISTRICT COURT

JUDGMENT—December 16, 1924

LOWELL, J.:

In the above entitled cause, after a full hearing, it is now, to wit, December 16, 1924, ordered that the petition be dismissed and the writ discharged, and that the relator, Quon Quon Poy, be remanded without bail to the custody of the United States Commissioner of Immigration at Boston in said District, to whom the writ was directed.

By the Court:

Frank H. Mason, Deputy Clerk. J. A. L., D. J.

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[fol. 9] IN UNITED STATES DISTRICT COURT

BILL OF EXCEPTIONS AND ORDER SETTLING SAME—Filed December 31, 1924

This case arises on a petition for habeas corpus to the commissioner of immigration at the port of Boston to obtain the discharge of the petitioner who is held for deportation. It appears that the petitioner

arrived at Boston June 25, 1924, and applied for admission to the United States as the son of Quon Mee Sing who is admitted to be a citizen of the United States of America. The writ of habeas corpus was duly issued pursuant to the petition and the case came on to be heard on the return to the writ. The petitioner offered to prove by the testimony of his father, his brother and a friend who had recently arrived from China that he is the son of Quon Mee Sing and is therefore a citizen of the United States, and not subject to deportation as an alien; but the court excluded such proof on the ground that the question of relationship of the petitioner to Quon Mee Sing appears by the return to the writ to have been decided adversely to the petitioner by a board of inquiry, and an appeal from such decision to the Secretary of Labor to have been dismissed, and such decision is not reviewable in this court; and to such exclusion of proof the petitioner and relator duly excepted. The respondent offered the certified copy of the record of the case of the petitioner in the Department of Labor on his application for admission as aforesaid, referred to in the respondent's return to the writ, and the same was duly admitted. It appeared from said record that the petitioner is fifteen (15) years of age, and was not advised of his right to have a relative or friend present at the hearing before the [fol. 10] Board of Inquiry until after all the evidence had been taken, and then he was asked if he waived said right.

The court found that the petitioner was not allowed to see counsel or friends until after all the testimony had been taken by the Board of Special Inquiry; that his counsel was not permitted to be present at or to participate in the examination of the petitioner or his witnesses; nor to know what the petitioner had testified, nor what the evidence was, until the record had been closed and a conclusion had been reached adverse to the petitioner; and that at that point, for the first time, the petitioner and his counsel were allowed to see the record and to know what the evidence was on which said conclusion had been reached and the adverse decision thereon rendered. No other evidence was introduced. The petitioner and relator requested the court to rule:

I. That the Act of Congress of February 5, 1917, regulating immigration of aliens, and residence of aliens in the United States, under which the Department of Labor adjudged the petitioner to be an alien, has no application to a son of a citizen of the United States, and the proceedings thereunder and order for deportation of the petitioner pursuant thereto, were null and void, and in no respect binding upon this court.

II. That this court in a hearing pursuant to a writ of habeas corpus is bound to hear and consider the evidence of citizenship duly offered to show that the Department of Labor, its officers and agents, had no jurisdiction to detain and deport the petitioner.

III. That under the constitution of the United States there is no power in Congress to annul citizenship directly or indirectly, except as punishment for crime, by an act of legislation subsequent to the

acquisition of said citizenship under the law, and the procedure of the Department of Labor to alienize the petitioner under the Act of Congress of February 5, 1917 was unconstitutional, illegal and void.

[fol. 11] IV. That the trial accorded to the petitioner by the Department of Labor was unfair, unjust and not in accord with due process of law to which the petitioner is entitled under the constitution of the United States.

But the court refused so to rule and ordered that the petition be dismissed, that the writ of habeas corpus heretofore issued herein be discharged, and that Quon Quon Poy be remanded to the custody of the immigration authorities for deportation; and to said rulings and refusals to rule, and to said order and action of the court, and refusal to act, the petitioner and relator duly excepted. The petitioner and relator appealed from the said decision and order to the Supreme Court of the United States, and filed a petition for appeal and assignment of errors, and said appeal was allowed as appears by the record.

Thereupon the petitioner and relator tender this their bill of exceptions to the actions and rulings and refusals to rule of the court in the various particulars set out which is signed and made a part of the record in this case.

Dated the thirty-first (31) day of December A. D. 1924.

Respectfully submitted, Quon Quon Poy, Petitioner. Quon Mee Sing, Relator, by Warren Ozro Kyle, of Counsel.

Bill of exceptions allowed:

James A. Lowell, U. S. District Judge.

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[fol. 12] IN UNITED STATES DISTRICT COURT

PETITION FOR APPEAL AND ASSIGNMENTS OF ERRORS—Filed December 31, 1924

The petitioner and relator pray and appeal from the order and judgment of this court to the Supreme Court of the United States and assign for error:

I. That the court erred in refusing to rule as requested by the petitioner that the Act of Congress of February 5, 1917, regulating immigration of aliens and residence of aliens in the United States is unconstitutional as to the first section thereof in that it designates as aliens any person or persons not native born or naturalized citizens of the United States thereby unlawfully discriminating against citizens by birth born out of the jurisdiction of the United States and denying to such persons their rights of citizenship under the constitution of the United States.

II. That the court erred in refusing to rule as requested by the petitioner that the Act of February 5, 1917, regulating immigration

of aliens, and residence of aliens in the United States, under which the Department of Labor adjudged the petitioner an alien has no application to a son of a citizen of the United States and the proceedings in this case thereunder were null and void.

III. That the court erred in refusing to rule, as requested by the petitioner, that the trial accorded to the petitioner by the Department of Labor was unfair, unjust and not in accord with due process of law under the Constitution and Laws of the United States.

IV. That the court erred in refusing to hear and consider evidence [fol. 13] duly offered as to the citizenship of the petitioner and the lack of jurisdiction of the Department of Labor to deport him.

V. That the court erred in ruling that the decision of the Department of Labor is conclusive upon this court.

VI. That the court erred in refusing to rule as requested by the petitioner, that the order of deportation and the detention of the petitioner thereupon are both illegal and void.

VII. That the court erred in entering an order for dismissal of the petition and discharge of the writ and remanding to custody the petitioner without determining the question of citizenship.

Wherefore the appellants pray that the order and judgment herein may be reversed and the appellants may have an adjudication in their favor.

Quon Quon Poy. Quon Mee Sing, by Warren Ozro Kyle, of Counsel.

J. A. L.
D. J.
Dec. 31, 1924.

[fol. 14] IN UNITED STATES DISTRICT COURT

RECOGNIZANCE—Dec. 31, 1924

UNITED STATES OF AMERICA,
Massachusetts District, ss:

At a District Court of the United States begun and holden at Boston, within and for the District of Massachusetts, on the first Tuesday of December, in the year of our Lord one thousand nine hundred and twenty four, to wit, December 31, 1924.

In the Case No. 2855, Civil

In re

QUON QUON POY, Petitioner, Relator,

v.

JOHN P. JOHNSON, U. S. Commissioner of Immigration

Personally appeared Quon Quon Poy, of Boston, Mass. and acknowledged himself to be indebted unto the United States of America, in the sum following, viz.: the said relator, Quon Quon Poy as principal, in the sum of fifteen hundred dollars to be levied on his goods or chattels, lands or tenements, and in want thereof upon the body of the said Quon Quon Poy to the use of the said United States, if default be made in the performance of the Condition following:

Whereas the said relator Quon Quon Poy has this day been ordered to be admitted to bail pending the appeal, the citation in this cause being returnable to the Supreme Court of the United States at Washington, D. C. on the 30th day of Jan. A. D. 1925.

Now the condition of the Recognizance is such that if the said relator Quon Quon Poy shall personally appear before the District Court of the United States to be holden at Boston, within and for the District aforesaid, whenever required, after the Mandate of the said Supreme Court of the United States shall be received in this cause to answer to such matters and things in the premises as shall be objected against him on behalf of the said United States, and more especially to such judgment as shall be awarded against him therein, and shall do and receive that which by this court shall be enjoined upon him in relation to the premises and not depart without license, [fol. 15] and shall meanwhile from term to term and day to day appear in this court, whenever lawfully required, in relation to the premises, then the above obligation to be void and of none effect, otherwise to abide in full force, power and virtue.

Received $1,500.00 currency in lieu of surety from Chin Bing Gaum December 31, 1924.

Chin Bing Gaum. (In the original recognizance the signature also appears in Chinese character.)

Approved: John W. Schenck, Asst. U. S. Atty.

Attest: Edith G. Rollins, Deputy Clerk.

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[fol. 16] Bond on Appeal for $250.00—Approved and filed March 20, 1925; omitted in printing

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[fols. 17 & 18] Citation—In usual form, showing service on Harold P. Williams & John W. Schenck; omitted in printing

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[fol. 19] In United States District Court

Clerk's Certificate

United States of America,
District of Massachusetts, ss:

I, James S. Allen, Clerk of the District Court of the United States for the District of Massachusetts, hereby certify that the foregoing is the transcript of the record on appeal of the relator, including true copies of such proofs, entries and papers on file as have been agreed upon by the parties, in the cause entitled, No. 2855, Civil Docket, In re Quon Quon Poy, Petitioner for Writ of Habeas Corpus, ex rel Quon Mee Sing, in said District Court determined, together with the original citation and the acknowledgment of service thereon.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Boston, in said District, this eleventh day of April, A. D. 1925.

James S. Allen, Clerk. (Seal of the United States District Court of Massachusetts.)

Endorsed on cover: File No. 31,038. Massachusetts D. C. U. S. Term No. 364. Quon Quon Poy, appellant, vs. John P. Johnson, U. S. Commissioner of Immigration at the Port of Boston, Mass. Filed April 16th, 1925. File No. 31,038.

# ORIGINAL EXHIBITS

## Supreme Court of the United States

OCTOBER TERM, 1926

## No. 68

QUON QUON POY, APPELLANT,

*vs.*

JOHN P. JOHNSON, U. S. COMMISSIONER OF IMMIGRATION AT THE PORT OF BOSTON, MASS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

FILED APRIL 16, 1926

(21,033)

# (31,038)

# SUPREME COURT OF THE UNITED STATES

## OCTOBER TERM, 1926

# No. 68

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QUON QUON POY, APPELLANT,

*vs.*

JOHN P. JOHNSON, U. S. COMMISSIONER OF IMMIGRATION AT THE PORT OF BOSTON, MASS.

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

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INDEX


| | Original | Print |
|---|---|---|
| Record of U. S. Immigration Board | 1 | 1 |
| Certificates to record | 1 | 1 |
| Correspondence | 2 | 1 |
| Report of board of review | 4 | 2 |
| Correspondence | 8 | 6 |
| Rehearing before board | 10 | 7 |
| Correspondence | 12 | 9 |
| Rehearing by board of special inquiry | 14 | 11 |
| Correspondence | 17 | 14 |
| Hearing by board of special inquiry | 19 | 15 |
| Hearing before inspector | 22 | 19 |
| Affidavit of Quan Mee Sing | 40 | 48 |
| Medical certificate | 41 | 49 |


JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DECEMBER 10, 1926

[fol. 1] **INCLOSURE 8121**

From Department of Labor, Bureau of Immigration

DEPARTMENT OF LABOR

Gen. No. 16. 55392/626

Washington, November 11, 1924.

I hereby certify that the annexed is the original record of the Bureau of Immigration, Washington, D. C., in the matter of the Chinese person Quon Quon Poy on file in the Bureau of Immigration, Washington, D. C.

W. W. Husband, Commissioner General of Immigration. (Official title.)

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Office of the Secretary

I hereby certify that W. W. Husband, who signed the foregoing certificate, is now, and was at the time of signing, Commissioner General of Immigration, and that full faith and credit should be given his certification as such.

In witness whereof, I have hereunto subscribed my name, and caused the seal of the Department of Labor to be affixed this 11th day of November, one thousand nine hundred and Twenty-four.

Robe Carl White, Second Assistant Secretary of Labor. (Seal Department of Labor, United States of America.)

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[fol. 2] 882

November 3, 1924.

55392/626, 625.

Commissioner of Immigration, East Boston, Mass.:

In reply to your letters of the 17th instant, Nos. 2500/5929 and 3500/5800, you are advised that the appeals of Quon Quon Poy and Hom Yok Tao have been dismissed.

The exhibits in the cases are herewith returned.
(Signed) W. W. Husband, Commissioner General.

H.

Nov. 3, 1924.
Inc. 654, 655.

[fol. 3] U. S. Department of Labor, Bureau of Immigration, Washington

No. 55392/626, 625.

November 3, 1924.

Mr. J. F. O'Connell, Attorney, 11 Beacon Street, Boston, Mass.

SIR: This is to advise you that the appeals of Quon Quon Poy and Hom Yok Tao in which you are interested, have been dismissed.

Respectfully, —— ——, Assistant Commissioner General.

H.

(Signed) W. W. Husband, Nov. 3, 1924.

660.

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[fol. 4] 55392/626. Boston, November 1, 1924.

In re Qvox Qvox Poy, Aged 15

This case comes before the Board of Review on appeal. Attorney J. F. O'Connell, Boston, granted a hearing.

This is the case of a fifteen year old Chinese boy who arrived at the port of Boston on June 25, 1924, and sought admission as the son of a citizen. He was excluded because of the fact that it was not believed that the relationship exists, and also as an alien afflicted with a physical disability which might affect his ability to earn a living, and as a person likely to become a public charge.

The record shows that the alleged father, Quon Mee Sing, is a native born citizen of the United States, and, therefore, if it is finally held that the relationship is established, the applicant is a citizen and all causes of exclusion fall.

The alleged father made a trip to China in 1908, returning in 1912. He again went to China in 1920, returning in 1922. The alleged father's file, No. 1097, which contains a record of his examination upon the occasion of his return on June 1, 1912, has a material bearing on this issue. He was asked:

"Have you any children?
A. Two boys.
Q. What are their names and ages?
A. Quon Gong Sick, 13 years old, Quon Gong Yow, 12 years old.
Q. What were the dates of their births?
A. Quon Gong Sick was born K. S. 26-1-15 and Quon Gong Yow was born K. S. 28-12-20.
Q. Then these boys were both born before you returned to the United States the first time?
A. Yes.
Q. How old was Quon Gong Yow when you left China?
A. One year old.
Q. Did you ever have any other child except these two boys?
A. No.
Q. Have you any adopted children?
A. No."

The applicant claims to have been born on February 10, 1910, which was over two years prior to the time that the alleged father stated he had but two children and never [fol. 5] had any other children. The two children of the alleged father referred to in 1912 have since been admitted to the United States. It will, therefore, be seen that this is a clear-cut prior adverse testimony case. There are other reasons which lead the Board of Review to believe that this boy is not the son of his alleged father. For instance, he was mentioned in 1920, at which time his birthdate was given as S. H. 3-1-1, which would be January 30, 1911, whereas it is now given as February 10, 1910, which would be S. H. 2-1-1.

Again in 1922, the alleged father testified that he had four boys, and as to the first two gave the day and month in which they were born, stating that he did not know the year. However, for this boy he at that time stated "I do not

know the year, month or day of birth." He was able to give the exact birthdate for his next child.

The record is exceptionally unfavorable to the applicant. In fact, it would appear that the applicant lacks considerable knowledge concerning his home life, and has advanced the most ridiculous explanations imaginable to apparently cover up his ignorance. The applicant claims to come from the village of Joan Wing, which is composed of only about sixteen houses. One would naturally think that a boy who has lived in such a small village all of his life thus far would be in a position to know practically every person in such a small village, and to describe correctly the house in which they live. However, the applicant states on one occasion that the two houses in this village were torn down, and when asked when he first saw that these building had been torn down, he replied "The first time I knew the buildings were torn down and that the lots were vacant was the day I left home for the United States." Again he states that he never saw the house opposite the small door of his own house until the day of his departure for the United States. This statement is as ridiculous as it is impossible. The boy is not blind, and has been able to attend school for the past few years. He admits that he has been proceeding from the school to his house daily for the purpose of securing his meals, and from this it will be seen that it would not be possible for him to have lived such a life as to warrant the statements made by him.

One of the prior landed alleged brothers, Quon Gong Set, appeared as a witness. While there are discrepancies between the testimony of the applicant, the alleged father, and the prior landed alleged brother, the testimony of the prior landed brother and the alleged father is in much better agreement than is their testimony when compared with that of the applicant. The applicant has disagreed with the other concerning approximate ages of immediate neighbors, the number of people in the village, etc.

Strange to say, there are two favorable features to this case, and these are about the only favorable features. There is a good resemblance between the photographs of the applicant and his alleged father (See Boston File 2500/5929). However, such a resemblance is far from being conclusive of the claims advanced. Again the Board of

Special Inquiry thought that this applicant was older than the age claimed, but Dr. Nute of the Public Health Service has issued a certificate to the effect that an ex-ray examination shows the boy to be just about the age claimed.

[fol. 6] After a careful consideration of the entire case. The board of review is of the opinion that the alleged father's very positive statements in 1912 to the effect that he had no such son, his subsequent doubtful statements concerning the birthday of this boy, and the applicant's evident lack of knowledge of matters which clearly should be within his memory, clearly overcome the few favorable features existing in this case, and it is, therefore, believed that he has fallen far short of bearing the burden of proof, placed upon him by law, of establishing that he is in truth and in fact the son of his alleged father. The finding that he is not the son of his alleged father, and as he is otherwise without status entitling him to admission to the United States, make it necessary to recommend that the excluding decision be affirmed.

It is recommended that the appeal be dismissed.

F. J. Phillips, Acting Chairman Secy. & Commr. Genl's Board of Review.

ES:H.

So ordered: Robe Carl White, Second Assistant Secretary.

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[fol. 7] No. 55392/626. Boston, October 28, 1924.

In re Quox Quox Poy, aged 15. Applicant for admission at Boston as Son of a Citizen

Board members: Shaughnessy, Archibald & Welch (Shaughnessy presiding).

Hearing: Atty. O'Connell of Boston.

Request: Admission.

[fol. 8] 626

U. S. Department of Labor, Immigration Service

Office of the Commissioner, East Boston, Mass.

October 17, 1924.

No. 2500/5929.

Commissioner-General of Immigration, Washington, D. C.

Herewith there is inclosed the record on appeal in the case of Quon Quon Poy, an applicant for admission at this port, ex S. S. Prince George, June 25, 1924, as the son of United States citizen Quon Mee Sing, aged 15, literate, male, single, born in and coming from Joan Wing village, Hoi Ping district, China, who was excluded by the Board of Special Inquiry was not satisfied as to the existence of the claimed relationship, also as an alien afflicted with a physical disability which might affect his ability to earn a living and as an alien likely to become a public charge.

Included with the record, as exhibits, will be found the identification paper presented by applicant upon arrival here; medical certificate issued in this case; and Boston files Nos. 1097, 2500/2161, 2500/5025 and 2500/5929, all of which please return when they have served their purpose.

The record is forwarded at the request of the local attorney, Hon. Jos. F. O'Connell of this city, who states that he intends to appear personally before the Department in the matter.

If the decision is to deport, notice to that effect may be forwarded to this office immediately, as applicant may be deported by any sailing of the transportation line involved, which sailings take place from this port on Mondays and Thursdays.

John P. Johnson, Commissioner.

WMP.

Inclousur. #18821.
Recd. Bu. of Immigration Oct. 20, 1924, mail and files.
Seal Chinese Immigration, Oct. 20, 1924.

[fol. 9] U. S. Department of Labor, Immigration Service

Office of the Commissioner, East Boston, Mass.

October 2, 1924.

2500/5929.

Mr. Joseph F. O'Connell, 11 Beacon Street, Boston, Mass.

Dear Sir: Receipt is acknowledged of your letter of the 29th ultimo, stating that you desire the case of Quon Quon Poy closed, and copy of testimony forwarded to you in order to perfect an appeal.

In compliance therewith, please find enclosed said copy, consisting of twenty sixe (26) pages, receipt of which kindly acknowledge.

The enclosed copy is to be returned when the case of Quon Quon Poy is finally disposed of.

———, Commissioner.

LCW.

Enclosure 18801.

Exact copy as signed by John P. Johnson. Mailed Oct. 2, 1924, by L. C. Webb.

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[fol. 10] B. S. I. 7

In re Quon Quon Poy

No. 2500/5929.

East Boston, Mass., October 1, 1924.

Rehearing in the case of Quon Quon Poy before a Board composed of Inspectors Stockwell, Chairman; Jensen McCarthy, Recorder. Interpreter: Yee Chew Yim.

Previous record read and accepted.

Note.—On September 25, 1924, a "not satisfied" motion was entered in this case and the applicant accorded the usual time in which to submit additional evidence. In a communication dated September 29th the attorney in the case, Hon Joseph F. O'Connell, advised this office that he

had no further testimony to offer and that the case might be closed.

Applicant recalled, sworn, testified:

Q. What are your names?

A. Quon Quon Poy is my only name.

Q. Are you the same Quon Quon Poy who appeared before me several times last month?

A. Yes.

Q. Do you remember what day you left Hong Kong?

A. The 4th month, 25th day, this year. (May 28, 1924.)

Q. Who purchased your steamship ticket?

A. The manager of the Quong Fat Wing store in Hong Kong.

Q. According to your previous testimony your father sent the money for your passage to Soon Hing Hong Co. at Hong Kong and you went to the office of that Company, obtained the money and bought your own ticket for the U. S. How do you explain that?

A. I was mistaken when I said the money was sent to Soon Hing Hong Co. My father sent the money to the Quong Fat Wing store and I went with the manager of that company to buy the ticket. The manager bought the ticket. I don't know how much he paid for it.

By Chairman: In connection with the "Not satisfied" motion rendered in this case on September 25th, the citizenship of the alleged father, Quon Mee Sing, was recognized but the Board was not satisfied as to the existence of the claimed relationship.

In the absence of additional evidence I am still of the opinion that the claimed relationship has not been reasonably established. I therefore move that the applicant, Quon Quon Poy, be excluded as a Chinese alien not a [fol. 11] member of any of the exempt classes entitled to enter or remain in the United States; also as an alien afflicted with uncinariaris, hook worm infection, which may affect ability to earn a living; and also as an alien likely to become a public charge.

Inspector Jensen: I second the motion.

Inspector McCarthy: I make it unanimous.

To Applicant: You have been refused admission to the United States by this Board as a Chinese alien not a member of any of the exempt classes entitled to enter or remain in this country, this Board not being satisfied of existence of relationship which you claimed to Quon Mee Sing as your alleged father. You have also been refused admission as an alien afflicted with uncinariaris, hook worm infection, which, as indicated by the Medical Certificate issued in your case, may affect ability to earn a living; and also as an alien likely to become a public charge.

From this decision you have the right of appeal to the Secretary of Labor at Washington, D. C., to whom in the event of an appeal the entire record in your case will be forward for review. Do you wish to appeal?

A. I will leave it to my father.

Q. In the event of your deportation you will be returned to the country whence you came by and at the expense of the transportation line bringing you here, in the same class of travel by which you arrived. Do you understand?

A. Yes.

Q. Have you anything further to say?

A. No.

Q. Have you thoroughly understood the Interpreter?

A. Yes.

Excluded October 1, 1924.

A. W. Stockwell, Chairman F. A. McCarthy, Recorder.

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[fol. 12] Law Offices of Joseph F. O'Connell, James E. O'Connell, Daniel T. O'Connell, Ernest B. Rowe

11 Beacon Street, Boston

Haymarket 6240, 6241

Cable Address Connello

September 29, 1924.

Commissioner of Immigration, East Boston, Mass.

Dear Sir: In the case of Quon Quon Poy, Boston file 2500/5249 in which you have entered a not-satisfied de-

cision, permit me to say the applicant has no further testimony to offer and desires to appeal.

Will you kindly send me the attorney's copy of the testimony so that the appeal may be perfected.

Very truly yours, Jos. F. O'Connell.

JFO/MW.

Received, Sep. 30, 1924, Immigration Service, Boston.

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[fol. 13] U. S. Department of Labor, Immigration Service

Office of Commissioner, East Boston, Mass.

No. 2500/5929. September 26, 1924.

Hon. Joseph F. O'Connell, 11 Beacon Street, Boston, Mass.

Quon Quon Poy

Dear Sir: In re application of above-named for admission into the United States at this port as son of a citizen you are advised that the Board of Special Inquiry hearing the case has entered the following preliminary decisions:

Satisfied as to citizenship of alleged father.

Not satisfied as to claimed relationship.

You are, therefore, allowed five days in which to state whether or not you wish to submit any additional evidence and, if so, five more days will be allowed you for that purpose.

If you do not wish to submit any additional evidence, please so advise in order that the case may be closed and a decision rendered of which you would be advised to enable you to exercise your right of appeal and examine the record.

Very truly yours, —— ——, Commissioner.

Exact copy as signed by John P. Johnson. Mailed Sep. 26, 1924, by L. O. Webb.

[fol. 14] BSI 4. (2500/5929)

In re Quong Quong Poy

Rehearing September 25, 1924, by Board of Special Inquiry.

Inspector A. W. Stockwell, Chairman. Inspector J. V. Fitzgerald. Inspector F. A. McCarthy, Recorder.

East Boston, Mass., Sept. 25, 1924.

(Previous record read and considered.)

Note.—This case was deferred September 12, 1924, for further medical examination. The applicant, appearing to be older than the age claimed, was given a thorough physical examination and under date of the 23d instant the Medical Division at this station reported as follows:

"In re Quon Quon Poy, male, Chinese, ex SS. Prince George, June 25, 1924

In reply to your request, the above-named Chinese applicant was given a thorough physical examination, including X-ray plates, with a view to determining his approximate age. Although he looks older than the age claimed, the X-ray plates showed skeleton formation characteristic of a person in the vicinity of fifteen years of age, which is approximately the age claimed.

Respectfully, (Sgd.) A. J. Nute, Medical Officer in Charge."

(By Chairman:) The citizenship of the alleged father, Quon Mee Sing, was favorably passed upon by the Bureau in its letter No. 54820/158 of February 13, 1920 (See Boston file 2500/2160). The claimed relationship, however, is in doubt.

1. The applicant, Quon Quon Poy, claims to be native of, and always to have resided in a Chinese village composed of seven rows containing 16 or 17 buildings. In spite of the comparatively simple task of describing this small village, however, the applicant and his two witnesses (the alleged father and the alleged prior-landed brother) failed of reasonable agreement in their respective descriptions.

In an attempt to clear up some of the discrepancies during cross-examination the applicant, who claims to have lived in the fourth row of his village ever since birth, asserted that he had never seen the lots in the fifth row (adjoining his own row) until the day of his departure for America when he left from that side of his house.

When it came to a description of the sixth row of the village the applicant asserted and re-asserted that there is [fol. 15] only one vacant lot at the head of that row followed by two houses on the second and third lots. The alleged father, on the other hand, testified that there are two vacant lots at the head of that row followed by a house on the third lot. The alleged prior-landed brother states that all the lots in that row are vacant save for one small house at the lower end of the row. Other points of disagreement exist but the foregoing illustration is sufficient.

2. There are several discrepancies regarding the occupancy of houses in the home village only one or two of which need be cited here.

On his first appearance the applicant asserted that the family in the house directly back of his in the same row consists of Quon Quok Hong with wife, one son and two daughters; that the son is aged 13 or 14 and the daughters are between 15 and 20 years of age. On cross-examination he again asserted that the daughters are older than the son, explaining that they are "taller" than the son and must be older. The alleged father testified that there are no daughters in this family, while the alleged brother claimed that the daughters are younger than the son with ages ranging from 9 to 12. It is difficult to account for such discrepancies in reference to the family of a next door neighbor.

3. Questioned as to the occupancy of the first house in his row, separated by only two lots from his own house, the applicant originally testified that it is occupied by Quon Sung Chun, a widower, who lives there alone and who, "so far as I know, never had any children." At his second appearance the applicant testified that Quon Sung Chun had a son who went to Havana several years ago, but that the son's wife and her son, aged 4 or 5, now live with Quon Sung Chun.

The alleged father also stated that the first house in his row belongs to Quon Sung Chun, but that the latter is married and that his wife and one son, aged "a little over ten years," live with him. The alleged brother also agrees that Quon Sung Chun lives in the first house of that row with his wife and one son, the latter, however, being 14 or 15 years old and attending school. (If this were true the son apparently would be a schoolmate of the applicant.)

The alleged brother further testified that another man, named Quon Yick, also resides with Quon Sung Chun in the same house. The alleged father agrees with the alleged brother in respect of Quon Yick, but the applicant states that Quon Yick lives with Quon En You in the next (third) row of the village.

4. The applicant was questioned at his first appearance, and again on cross-examination, regarding the occupancy of the first house in the third row which adjoins the row in [fol. 16] which his own house is located. On each occasion he testified that that house is occupied by Quon En You and Quon Yick, both unmarried; "so long as I can remember the two have lived alone together."

As stated above both the alleged father and the alleged brother testified that Quon Yick lives with Quon Sung Chun in the first house of the fourth row.

Concerning Quon En You the alleged brother states that he is a widower with one son who is abroad. The alleged father testified regarding the existence of Quon En You's son, adding that the son's wife and child (aged 8 or 9) reside in the house with Quon En You.

5. When first questioned about the family living in the house opposite the small door of his own house the applicant stated that Quon Hen Set resides there with his wife and one son aged about ten years who "has not yet entered school." On cross-examination, however, the applicant testified that the son is 13 or 14 years of age and attended school with him in the home village. The alleged father describes this son of Quon Hen Set as 18 or 20 years of age working out as a farmer; and in support of the claimed age added that he saw this son when he (the witness) visited China in 1908. The alleged brother also

testifies that Quon Hen Set's son is a little over 20 years of age and is employed as a farmer.

In view of the foregoing I am not satisfied that the claimed relationship has been reasonably established and I therefore move that the applicant be given the usual time in which to submit additional testimony.

Inspector J. V. Fitzgerald: I second the motion.

Inspector F. A. McCarthy: It is unanimous.

Not satisfied, September 25, 1924.

A. W. Stockwell, Chairman. F. A. McCarthy, Recorder.

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[fol. 17] Treasury Department, United States Public Health Service, U. S. Immigration Station, East Boston, Mass.

Office of Medical Officer in Charge

September 23, 1924.

Commissioner of Immigration, Boston, Mass.

SIR:

In re Quon Quon Poy, male, Chinese, ex SS. Prince George, June 25, 1924

In reply to your request, the above-named Chinese applicant was given a thorough physical examination, including x-ray plates, with a view to determining his approximate age. Although he looks older than the age claimed, the x-ray plates showed skeleton formation characteristic of a person in the vicinity of fifteen years of age, which is approximately the age claimed.

Respectfully, A. J. Xute, Medical Officer in Charge.

——— ———. Immigration Service, Chinese Division, Boston, Mass., Sept. 23, 1924.

[fol. 18] U. S. Department of Labor, Immigration Service

Office of the Commissioner, East Boston, Mass.

2500/5929. Sept. 12, 1924.

Medical Officer in Charge Boston Immigration Station.

SIR: Will you kindly arrange to have made a thorough examination of the Chinese applicant, Quon Quon Poy, with a view to determining his approximate age? He arrived at this port June 25, 1924, by SS Prince George. He claims to have been born February 10, 1910, according to which claim he is now fourteen years and seven months of age.

Respectfully, —— ——, Commissioner.

Exact copy as signed by —— ——. Mailed Sep. 12, 1924, by L. C. W.

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[fol. 19] U. S. DEPARTMENT OF LABOR, IMMIGRATION SERVICE, EAST BOSTON, MASS.

September 12, 1924.

Board of Special Inquiry: A. W. Stockwell, Chairman & Recorder; John H. Jensen and J. V. Fitzgerald.

No. 2500/5929

Ex SS. "Prince George," Boston, June 25, 1924. C. N. R.

In re Quox Quox Poy, Applicant for Admission as the Son of a Citizen

* * * * * * *

NOTE.—This case was referred to the Board of Special Inquiry on September 12, 1924. (Previous record read and accepted.)

Applicant, duly sworn, testifies:
(Interpreter: Yee Chew Yim.)

Q. What is your name?
A. Quon Quon Poy.
Q. You are informed of your right to have a relative or

friend present at this hearing. Do you desire to avail yourself of this right?

A. No.

Q. Do you waive your right to have present a relative or friend and are you now willing to proceed with the hearing?

A. Yes.

Q. You are the same person who was examined by me on September 10 and again this morning?

A. Yes.

Q. Record of the testimony offered by you on those occasions will be made a part of the present proceedings. Do you understand?

A. Yes.

Q. Since your first appearance your alleged father, Quon Mee Sing, and your alleged brother, Quon Gong Set, have been examined and the record of their testimony will be made a part also of the present proceedings. Do you understand?

A. Yes.

NOTE.—J. V. Fitzgerald replaces Stockwell as Recorder.

Q. When you left home for the U. S. did you leave from the small or large door of *of* your house?

A. From the small door side.

Q. About what time of day did you leave your home on that occasion?

A. I left after breakfast, probably between eight and nine o'clock.

Q. After you left did you pass by the house opposite your small door?

A. Yes.

Q. Is the house opposite your small door a large or small house?

A. It is a small size house of two rooms.

Q. I asked you this morning how you know the house op- [fol. 20] posite your small door is a two room house. You replied, "I have never seen the house but my mother told me that it is a two room house opposite our small door."

A. I was mistaken, what I meant was that the day of my departure from home was the first time I saw that house opposite my small door.

Q. Who lives in this house opposite your small door.

A. Quon Hen Set, his wife, one son, no daughters.

Q. Describe his son?

A. Quon Shuck is his name, and he is about 13 or 14 years of age.

Q. Does Quon Shuck go to school.

A. Yes. He goes to school and attended school with me in home village.

Q. When I asked you two days ago to describe Quon Hen Set's son, you said he is about ten years of age and has not yet entered school. Which story is correct?

A. I was mistaken two days ago. I am right now.

Q. Are you sure that Quon Shuck is not more than 14 years of age.

A. Yes, he is about 13 or 14.

Q. If anyone should say that Quon Shuck is 20 years of age and is employed as a farmer, would that be a mistake?

A. Yes, that would be a mistake.

Q. Do you know anyone in your viliage named Quon Yum?

A. I have heard of him but he moved to another village 2nd month, this year, and I don't know where he is gone.

Q. Where did he live in your village before removal?

A. Counting from west, or school end of village, he lived in 3rd house, 5th row.

Q. How many houses in that row?

A. There were originally four houses in that row, but the two houses on 2nd and 3rd lots have been torn down this year.

Q. Then you mean to say that Quon Yum's house, which is the 3rd in that row, has been torn down since he moved away?

A. Yes.

Q. I asked you this morning if there have been any changes among the buildings of your village during the past four or five years and you answered "No". I again asked you if any new buildings had been erected or any old buildings torn down in the last four or five years and you again answered "No". Now you say that these two building were torn down during the past year. Which story is correct?

A. I was mistaken before, but I am right now.

Q. When did you first see that those buildings had been torn down and that the lots were vacant?

A. The first time I knew the buildings were torn down and that the lots were vacant was the day I left home for the U. S.

Q. How old was Quon Yum and what was his occupation?

A. I don't know his age, and I don't know what his occupation was.

Q. Who occupies the house opposite the schoolhouse, that is the first house, 2nd row from west.

A. Quon Kwok Shum, wife, one son, no daughter.

Q. Describe his son?

A. Quon Gew, about 20 years of age, and farmer, he is single.

Q. Who lives in 3rd house, 3rd row from the west?

A. I don't know.

Q. Your house is on the 4th lot, of the 4th row, and yet you don't know who lives in 3rd house, 3rd row, next to your row?

A. I don't know.

[fol. 21] Q. Is it not true that you pass by that house every day going and coming from school?

A. Yes, I pass by the house every day but I cannot remember who lives there.

Q. Are you sure that anyone lives in that house?

A. Yes, I know someone lives there, but I can't think of the name.

Q. Did you ever hear of the firm of Quon Fat Wing in Hong Kong?

A. Yes.

Q. Did you ever call at the office of that firm in Hong Kong?

A. That is where I purchased my ticket for America and where I waited for the steamer.

Q. Did you ever hear of the Soon Hing Hong Company, Hong Kong.

A. Yes, I visited that firm while I was in Hong Kong en route for the United States.

Q. Is the Soon Hing Hong Company located near the Quon Fat Wing Company?

A. They are about 15 minutes walk apart on different streets.

Q. Did you ever have any business dealings with the Soon Hing Hong Company?

A. At the time of my visit to the store, while in Hong Kong, I bought a face towel. That is the only business I had.

Q. Two days ago, according to the record, you testified that your father sent $400.00 to the Soon Hing Kong Company and you got your ticket there in order to come to America. How do you explain that?

A. I was mistaken. I meant to say that he sent the money to Quon Fat Wing's store.

Q. At his hearing yesterday your alleged father stated that the Quoan Fat Wing Company and the Soon Hing Kong Company are located in the same building. You state they are in different buildings on different streets. Who is mistaken?

A. There may be two stores by the same name, but the one where I went is on a different street.

Q. Have you anything further to say?

A. No sir.

Q. Have you thoroughly understood the interpreter.

A. Yes.

Defer for further medical examination.

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[fol. 22] U. S. Department of Labor, Immigration Service, East Boston, Mass.

No. 2500/5929, 5/16, "Prince George." C. N. R. Boston, June 25, 1924

Sept. 10, 1924.

A. W. Stockwell, Inspector and Recorder.

In the Matter of Quox Quók Poy, "Son of a Citizen"

Soo Hoo Ung, Interpreter (sworn).

Applicant presents usual affidavit signed by his alleged father, Quon Mee Sing, executed before Ernest B. Rowe, notary public, at Boston on the 20th day of November, 1923,

with two photographs attached which the applicant correctly identifies as of his father and himself.

Description

Age 15; height 5′ 11″ in Chinese slippers; occupation, student; brown mole just above lobe of left ear; dark mole in middle of back of neck just below hair of head; scar on each side of neck about 1½″ below ear; several moles over right eye-brow; scar on knuckle on first finger of right hand.

Medical certificate

"This is to certify that the above-described person has this day been examined and is found to be afflicted with Uncinariasis, hookworm infection, that may affect ability to earn a living. Also ascaris lumbricoides and trichiurus, round and whip-worm infection of intestines."

(Signed) M. M. Gilbert, A. A. Surgeon. M. G. Kotler, A. A. Surgeon.

Applicant (sworn) testifies:

Q. What are your names?

A. Quan Quan Poy is my only name.

Q. What is your age, date of birth and birth-place?

A. 15 years old, born S T 2-1-1 (Feb. 10, 1910) at Joan Wing village, Hoi Ping dist.

Q. Can you read?

A. (Reads Chinese card).

Q. Were you ever before in the United States?

A. No.

Q. Who paid your passage to this country?

A. My father.

Q. How much money did you have on arrival?

A. A little over one dollar.

Q. To whom are you going?

A. I am going to my father—he is somewhere in Boston but I don't know the address.

[fol. 23] Q. What is your object in coming to the United States?

A. To go to school.

Q. Have you any brothers or sisters?

A. I have three brothers; no sisters.

Q. Give the names, ages, and present location of your brothers.

A. Quon Gong Set, given name, Quon Foon Set, marriage name; age 25. He is at present in Boston but I don't know his address. Quon Gong You, given name; Quon Foon Dong marriage name; age 24. He is also in Boston but I haven't his adress. Quon Gong Ying, aged 4, my youngest brother, is at home in China in Joan Wing village.

Q. Have you ever had any other brothers or sisters, natural or adopted?

A. No.

Q. Are you four brothers all of the same father and mother?

A. Yes.

Q. Were you all born at Joan Wing village in the same house?

A. I don't know whether my two older brothers were born in my village or some other village, but my youngest brother was born in Joan Wing.

Q. Why don't you know where your two older brothers were born?

A. They are older than I am so that I am not sure where they were born.

Q. Hasn't your family always lived in the same village?

A. So far as I know they have always lived in the same village. I have never asked whether my parents may have lived in some other village before I was born.

Q. In what vicinity is Joan Wing village located?

A. Mow Gong vicinity.

Q. Do you know the birth-dates of your two older brothers?

A. No.

Q. How many times has Quon Gong Set been married?

A. Only once.

Q. Where and when was he married?

A. He was married in Joan Wing village but I don't know what year.

Q. Where were you at the time of his marriage?

A. I was attending school at the time he was married—I think I was about 8 or 9 years old.

Q. Describe Quon Gong Set's wife.

A. Fong She, about 23 years old, natural feet, from Sar Kai village, Hoi Ping district.

Q. How far is Sar Kai from your village?

A. I have never been there and I don't know how far it is.

Q. Has Quon Gong Set any children?

A. He has two sons, no daughters.

Q. What are the names and ages of his sons?

A. Quon Bak Ai, age 4; he was born in C. R. 10 but I don't know the date; and Quon Bak Sum aged 3. He was born in C. R. 11 but I don't know the date.

Q. How many times has Quon Gong You been married?

A. He has been married also only once.

Q. When and where was he married?

A. I don't know when he was married but he was married in the home village.

Q. How old were you at the time of his marriage?

A. I was about ten.

Q. Described Quon Gong You's wife?

A. Woo She, 23 or 24 years old, natural feet, from Woo Ook village, Hoi Ping district.

Q. Has Quon Gong You any children?

A. He also has two sons, no daughters.

Q. What are the names and ages of the sons?

A. Quon Wing Jew, about three years old but I don't know the date of his birth. The other is Quon Wing Heung, aged 2. I don't know the date of birth.

Q. Were these children of your two brothers born in your house?

A. Yes.

Q. Were you living at home at the time of their birth?

A. I attended school in the home village but lived at the school and only went home for my meals. The remainder of the family lived at home.

[fol. 24] Q. By what names do you know your father?

A. Quon Mee Sing, given name; Quon Sung Tuey, marriage name; he also has another name—Quon Tew; no others.

Q. How old is your father and when and where was he born?

A. I know that he was born somewhere in the United States on the 8th month and 14th day but I don't know the year. He is 48 years old.

How do you know he was born in the United States?
My mother told me that he was born in the United
es.
Have you ever seen your father?
The first and only time I ever saw my father was on
isit to China in C. R. 9, returning to the United States
R. 11 (1922) with my second brother, Quon Gong You.
About what month did he leave on his return to the
ed States in C. R. 11?
I don't remember.
Was it summer or winter?
I have forgotten whether it was summer or winter.
Do you remember two years back no better than that?
I have forgotten all about it but I know they left home
R. 11.
Where were you at the time of their departure?
I was at school at that time.
Did you not bid them good-bye when they left?
I bade them good-by at home the morning of their
rture.
And you still say that you cannot remember the time
e year in which they left?
I don't know whether it was cold weather or hot
her. I have forgotten about it.
Has your father any brothers or sisters?
He has one brother, no sisters.
What is the name, age and present location of his
er?
His given name is Quon Jee Sai; he is single; I don't
his age. I know he is in America but I don't know
e.
Is he older or younger than your father?
He is younger but I don't know how much; I have
seen my uncle.
How do you know he is unmarried?
My mother told me that.
Are your father's parents living?
They died a long time ago before I was born.
What were their names?
Quon Hing was his given name and Quon Gong Sing
his marriage name. My grandmother's name was
She.

Q. Did they die in China or abroad?

A. I never asked my mother and I don't know.

Q. Do you know where your paternal grandparents are buried?

A. They are buried at Nek Hill about half a li from the head of our village.

Q. Have you ever visited their grave?

A. When my father was home in C. R. 9 I visited the grave with him. I visit the grave every year.

Q. How many times did you visit the grave with your father?

A. Only two times—once each year while he was at home.

Q. Did anyone accompany you and your father on those occasions?

A. My two older brothers accompanied us—no others.

Q. Are the remains of your grandparents in the same grave and is the grave marked in any way?

A. They are both buried in the same grave but there is no stone or tablet to mark the grave. It is not marked in any way the grave being identified by its location.

[fol. 25] Q. How many times has your father been married?

A. Only once.

Q. Describe your mother.

A. Der She, aged 48, natural feet, from Shon Hong village, Hoi Ping district.

Q. Did your mother ever have any brothers or sisters?

A. No.

Q. Are your mother's parents living?

A. They died many years ago—I have never seen them.

Q. What were their names?

A. I don't know.

Q. Where are they buried?

A. I don't know.

Q. What have you been doing in China?

A. I began school at the age of ten and left school about a month before coming to the United States.

Q. Did you always attend school in the same place?

A. Yes, always in the same school and in the home village.

Q. Did you live at the school-house during the entire period of your attendance?

A. Yes I always lived at school.

Q. Did you attend school all the time while your father was on his visit in China?

A. Yes, all the time.

Q. During his visit did your father spend all the time in the home village or did he make some trips to other places?

A. He spent the entire time at home.

Q. Did you take any trips with him to any place other than your grand-parents' grave?

A. No, I never went with him to any other place than my grandparents' grave.

Q. And you made just two visits to the grave with your father and your two brothers?

A. Yes, that is right.

Q. Did your two older brothers attend the same school as yourself?

A. I don't know whether they attended that school or some other school.

Q. Is there more than one school in your village?

A. There is only one schoolhouse in our village, and only one school.

Q. Do you think that your older brothers may have attended school in some other place than the home village?

A. I don't know.

Q. Did you never hear your mother or your brothers speak about their schooling?

A. No, I never heard them say anything about it.

Q. Had both of your older brothers finished school before you began school?

A. They finished school before I started school. I never remember seeing them go to school—they finished long before I began school.

Q. What was the name of your teacher?

A. Quon Sung Yook—he was the only teacher I had.

Q. Did he have any other name?

A. That is the only name I know—I don't know whether he was married—he lived in another village.

Q. Describe your home village of Joan Wing?

A. There are seven rows with about 17 or 18 houses. The village faces south and the head of the village is at the right or west.

Q. Counting from the head of the village or the west, how many houses in each row?

A. Counting from the head or west there are in the 1st row, 1st lot, the school-house

2nd row, two houses on the first two lots

3rd row, three houses first three lots

4th row, four houses on the 1st, 3rd, 4th and 5th lots

5th row, two houses on the 1st and 4th lots

6th row, two houses on the 2nd and 3rd lots

7th row, social hall on the 1st lot.

[fol. 26] Q. That makes fifteen houses—is that all?

A. At the foot of the 5th row there is an old shanty used as a store-room—I don't know to whom it belongs.

Q. Then there are only sixteen buildings in all?

A. That is correct.

Q. How many houses in the village does your family own?

A. Only one.

Q. Where is it located?

A. It is the third house on the 4th lot of the fourth row.

Q. Describe the house.

A. It is a regular five-room house with large and small doors, the large door facing west or the head of the village. It is a brick house with tile floors.

Q. Who now occupies the house?

A. The wives of my two brothers and their children, my mother and my youngest brother.

Q. How are the families divided in the house?

A. My oldest brother's family occupies the small-door side and my second brother's family the large-door side. My mother and younger brother occupy the middle room.

Q. What room did your father occupy on his last visit to China?

A. My father occupied the middle room with my mother.

Q. What room did you occupy when you were at home?

A. I lived in the school-house up to the time that I left China for this country.

Q. Then you have never lived at home since beginning school at ten years of age?

A. No, I have always lived at school since ten years of age.

Q. How long have the families occupied the rooms as described by you?

A. Ever since my oldest brother was married his family has occupied the small-door room and my mother the large-door room; after my second brother was married my mother

moved into the middle room leaving the large-door room to my second brother.

Q. Did your family ever own more than this one house in the home village?

A. No.

Q. How do you know?

A. My mother told me that we never owned any other house than that one.

Q. Who occupies the house just back of yours on the fifth lot of your row?

A. Quon Quok Hong with wife, one son and two daughters.

Q. What is Quon Quok Hong's occupation?

A. He is at home but I don't know what his occupation is.

Q. Did you ever see his wife?

A. I have seen her perhaps once in six months.

Q. Can you describe her?

A. I don't know her name or age but she has released feet.

Q. How do you know whether they are released or natural feet?

A. All I know is that she walked like a person with released feet.

Q. Describe Quon Quok Hong's son.

A. His name is Quon Koon. He is 13 or 14 years of age and attends school in the home village.

Q. Did he attend school with you?

A. He attended school with me this year for the first time.

Q. Describe Quon Quok Hong's daughters.

A. I don't know their names or ages. I have very seldom seen them but I should say they were between 15 and 20 years of age.

Q. You are sure that the daughters are older than the son?

A. Yes.

Q. Who lives in the first house, first lot, of your row?

A. Quon Sung Chun. He is at home and lives there alone. His wife died many years back before I remember. So far as I know he never had any children.

[fol. 27] Q. You would know if Quon Sung Chun had any children would you not?

A. The old man is there all alone. He may have some grown-up children but there are none there at the present time.

Q. Do you know anyone in your village by the name of Quon Gim Hong?

A. No, I don't know anyone by that name.

Q. Do you know——

A. (Interrupting.) I remember now I do know Quon Gem Hong—he lives in the first house of the fifth row counting from the west or head. He lives there alone but I do not know his occupation. He is single.

Q. Who lives in the first house of the third row counting from the head?

A. Quon En You lives there with another man named Quon Yick—they are there alone. Quon En You is a pedlar and Quon Yick sometimes works as a farmer in the home village.

Q. Is either of them married?

A. They are both single.

Q. How do you know?

A. Because I have never seen any woman in the house. I pass by the house every day and I never saw anyone there but the two men.

Q. About how old are these men?

A. They are both between 30 and 40.

Q. Who lives in the house in front of your house in the home village?

A. Quon Kwok Long with wife and one son, no daughters. Quon Kwok Long works at Mow Gong market in some grocery store.

Q. Have you ever seen Quon Kwok Long's wife?

A. No.

Q. How do you know he has a wife?

A. I know that he has a son and he must have a wife.

Q. Describe Quon Kwok Long's son.

A. Quon Kong, aged 14, attending school in the home village.

Q. Did he attend school with you?

A. He was with me at school this year. He was not at school with me before this year.

Q. Who lives in the house opposite your small door?

A. Quon Hen Set with wife and one son.

Q. What is Quon Hen Set's occupation?

A. He is at home but I don't know his occupation.

Q. Did you ever see his wife?

A. No.

Q. Describe his son.

A. Quon Set is his name and he is about ten years of age. He has not yet entered school.

Q. Describe the school-house in your village.

A. It is a brick building one story, with three rooms and tile floors. It is located in the first lot of the first row counting from the west or head.

Q. How are the three rooms used?

A. There are three small rooms, one of which is used by the teacher and the other two by the students who live at the school; and then there is one large room for recitations.

Q. Of what are the partitions between the rooms constructed?

A. Of brick.

Q. Does your school have any name?

A. Jung Wah Hok How school is the full Chinese name.

Q. Describe the social hall located on the first floor of the last row of your village.

A. It is a one-story building of brick containing one large room used as a hall for social purposes.

Q. Is there a wall or any gates to your village?

A. Surrounding the back of the village is a hedge of trees and bamboo. At each end of this hedge, at the head and tail of the village, is a gate of posts or timber. Each gate is about 15 feet high and 15 or 20 feet wide. In the center of each gate is a double door, 7 or 8 feet wide that is closed every night. No other walls or gates.

[fol. 28] Q. Are there any bodies of water in or near your village?

A. Only a fish-pond in front of the village.

Q. Where do the people in your village get their drinking water?

A. From a well located about 30 feet in front of the school house.

Q. What is the nearest market to your village?

A. Mow Gong is the nearest. It is about half a li to the west.

Q. Is the market known by any other name?

A. That is the only name I know.

Q. What are the market days?

A. I don't know.

Q. Did you go to market with your father during his last visit to China?

A. No.

Q. Did you ever hear of Hen Sin market?

A. No, I don't know of it.

Q. Name some of the near-by villages.

A. About half a li to the east is Gow Duey Long village. North of the village is Gim Wong village about half a li away. South of the village is Bok Sar Fet about half a li distant.

Q. Where is Wun San Doo village?

A. North-east of our village about half a li away.

Q. Who made the arrangements for your trip from China to the United States?

A. My father sent $400.00 to Soon Hing Hong Co. at Hong Kong. My father previously had written me to go to that Company and get the money. I followed instructions, obtained the money, bought my own ticket and took passage for the United States.

Q. Describe the journey from your home to Hong Kong.

A. I walked about one po from my home to Chok Hom market where I took a boat to Gon Yick station; at Gon Yick I took a train for Bak Kai where I took the steamer for Hong Kong.

Q. How long did the entire journey to Hong Kong occupy?

A. One day and two nights. I left home at night. At 7 o'clock the next morning I took the boat at Chok Hom, and the second night was occupied by the steamer trip from Bak Kai to Hong Kong.

Q. I will ask you to identify photograph attached to receipt for certificate of identity in Boston file 2500/5025.

A. That is my second brother, Quon Gong You (Quon Quong You). (Correct.)

Q. Of whom is this a photograph (Referring to photo attached to affidavit in Boston file 2500/5249?

A. That is my older brother, Quon Gong Sick (Quon Quon Thlet). (Correctly identified.)

Q. Are there any articles of American manufacture at your home left by your father?

A. Nothing that I know o[illegible] I have never seen anything at home of the kind.

Q. Do you know anyone in the United States besides your father and two brothers?

A. No, I don't know anyone else here.

Q. Has your father at any time sent home by visitors from America any money or letters or gifts?

A. I don't remember of anyone coming from the United States to our house with anything from my father.

Q. Are there any changes or additions you wish to make in your testimony?

A. No changes or additions.

Q. Have you thoroughly understood the interpreter?

A. Yes.

Signature of applicant in Chinese: X X X*

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[fol. 29] 2500/5929

Quon Quon Poy

(Sept. 11, 1924.)

Case resumed September 11, 1924; same examining inspector and interpreter.

(Inspector Stockwell and interpreter Soo Hoo Ung (sworn).

Witness presents certificate of identity No. 6959 issued at the port of Vancouver, B. C., June 18, 1912, by John L. Zurbrick, immigration official in charge, in the name of (Quon) Mee Sing, alias Quon Tew, attached to which is a photograph that is a good likeness of the witness. (Certificate endorsed and returned.)

Witness, sworn, testifies:

Q. What are your names?

A. Quon Mee Sing; given name; Quon Sung Tuey, marriage name; school name, Quon Tew; no others.

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[*Chinese characters not reproduced.]

Q. What is your present age, occupation and address?

A. Age, 48; present address 15 Tyler St., Boston; occupation, laundryman.

Q. When did you last testify before the immigration officials?

A. Last September, at this immigation station, I testified for my oldest son, Quon Gong Set, an applicant for admission. (Boston file 2500/5249).

Q. Are you the same Quon Mee Sing who testified at this station in September, 1922, in behalf of Quon Quon You (Boston file 2500/5025).

A. Yes.

Q. When did you make your last visit to China?

A. The last time I left Boston in C. R. 9 (I forget the month and day) the first part of the year for China and returned in C. R 11 about the middle of September. I reached Boston in C. R. 11-8-12 (Oct. 2, 1922)—no, I mean the 2nd day of the 8th month (Sept. 22)—and was discharged the same day (Boston file 2500/2161).

Q. What was the date of your previous visit to China?

A. I left Boston in K. S. 34 (1908) and returned the first part of the year in C R 1 (1912) (Boston file 1097).

Q. Do you wish to make any changes or corrections in the testimony you have given before the immigration officials on these various occasions?

A. No.

Q. The statements you made on those several occasions will be made a part of this record. Do you understand?

A. Yes.

Q. Have there been any changes in your family history since you last testified before the immigation officials?

A. No changes.

Q. I will ask you to identify photographs attached to affidavit in Boston file 2500/5929.

A. Myself and my son, Quon Quon Poy, the applicant. (Correctly identified.)

Q. Of whom is this photograph (referring to photo attached to receipt for certificate of identity in Boston file 2500/5025)?

A. My second son, Quon Quon You. (Correct.)

Q. Why do you come here today?

A. To testify for my son, Quon Quon Poy, an applicant for admission to the United States.

[fol. 30] Q. Has the applicant any other name?

A. No other name.

Q. What is his age, date of birth and birth-place?

A. Age 15, born S T 2-1-1 (Feb. 10, 1910) at Jon Wing Lee village, Hoi Ping dist.

Q. Has the applicant always lived in that village?

A. Yes, always in the same village and the same house.

Q. Have you and your family always lived in that village?

A. They have always lived in that village and in the same house.

Q. Where were you at the time of the applicant's birth?

A. I was at home in China at the time of his birth.

Q. What was the applicant doing at the time of your last visit to China?

A. He was attending school, at the home village.

Q. Did you see him every day?

A. Yes. He came home every day for his meals.

Q. During your last visit in China did you spend all your time in the home village or did you make trips away from home?

A. I always remained at home.

Q. Did you not visit the market-place or the graves of your parents?

A. Yes, I visited the market about every day. I also visited my parents' grave once each year.

Q. How many times did you visit your parents' graves while you were in China?

A. The first time in C R 10, early in the year, with the applicant and my two older sons. I also visited once more the next year, also with my three sons.

Q. According to our record you testified in 1922 that you made only one visit to the grave and that you were accompanied only by your son Quon Gong You. At another time you testified that you made two visits and that your two older sons accompanied you. You now say that you made two visits and that your three sons accompanied you. Which is correct? (Boston files 2500/5025 and 5249).

A. The first visit I am not sure about—whether two or three sons were with me. The second time the three accompanied me.

Q. How many years did the applicant attend school in China?

A. He began school at about 10 years of age and continued until coming to this country.

Q. How many schools are there in your village?

A. Only one.

Q. Did you ever see the school-house?

A. I have visited it once or twice on my previous trip to China.

Q. Can you describe the school-house?

A. It is about the size of a five-room house and has a few rooms inside but I don't know how many.

Q. Did your two older sons attend school in this building?

A. Yes, they had all their schooling there.

Q. I will show you a plan of the village of Jon Wing Lee attached to Boston file 2500/5025 which you submitted at the time you testified for your son Quon Gong You. Is that a correct plan of your village?

A. Yes.

Q. Describe your village.

A. The village faces south. There are seven rows and about 16 or 17 houses. There is no head to the village but all the large doors face west and we call that the head.

[fol. 31] Q. How many houses in each row counting from the west?

A. (Refers to his plan in file 2500/5025.) First row contains only the school-house; 2nd row, three houses on the first three lots; 3rd row, three houses on first three lots; 4th row, four houses on the 1st, 3rd, 4th and 5th lots; 5th row, four houses on the first four lots; 6th row, one house on the third lot (first two lots vacant); 7th row, social hall.

Q. Are there no other houses in the village?

A. There is a small brick building back of the village very close to the foot of my row that is used for storage. That is all—there are no other buildings.

Q. Counting the brick building that makes eighteen buildings in the village. The applicant account for only sixteen and in two of the rows he places a less number of buildings than you. How can this discrepancy be explained?

A. I am right. My son must have made the mistake. There are one or two small houses that perhaps he failed to count.

Q. Where are the small houses?

A. In the fifth row, counting from the west, the second and fourth houses are only about one-third regular size containing two rooms each.

Q. Is that the only explanation you can make of this difference between your testimony and the applicant's?

A. Yes.

Q. While you were at home during your last visit what room in the house did you occupy?

A. I occupied the middle room with my wife.

Q. How was the remainder of the house occupied?

A. The room on the large-door side was occupied by Quon Gong You and family; the small-door room was occupied by Quon Gong Set and his wife and children.

Q. Do you know anyone in your village by the name of Quon Quok Hong?

A. Yes. He occupies the house back of ours with his wife and one son, no daughters.

Q. Describe Quon Quok Hong's son.

A. Quon Goon, 13 or 14 years old.

Q. Do you know if Quon Quok Hong ever had any daughters or any other sons?

A. I don't know of any except this one son.

Q. If he had any other son or daughters living at home you would know about it would you not?

A. Yes, I would. I know that when I was at home he only had this one son and no daughters.

Q. Do you know anyone in your village named Quon Sung Chun?

A. I do not recall that name.

Q. Who lives in the first house of the first lot of your row?

A. Quon Sung Chun—I remember now. He works at Hong Kong, but this wife and one son are at home.

Q. Describe the son.

A. His name is Quon Fong and he is a little over ten years of age.

Q. Has Quon Sung Chun been married more than once?

A. He has been married twice, this son being by the second wife.

[fol. 32] Q. Does Quon Sung Quon get home very often?

A. He comes home six or eight times a year and spends a few days and then returns to Hong Kong.

A. About how old a man is Quon Sung Chun?

A. About my age (48).

Q. Do you know anyone in your village named Quon Gem Hong?

A. Yes.

Q. Where does he live and how much of a family has he?

A. He lives in the first house of the fifth row. He is unmarried and lives there alone.

Q. Who lives in the first house of the third row counting from the west?

A. Quon En You lives there with one son and no daughters. His wife is dead.

Q. Describe the son.

A. I have never seen the son. He is grown up and is abroad.

Q. Do you know how many years Quon En You's wife has been dead?

A. I don't know when she died.

Q. Do you know anyone in your village named Quon Yick?

A. Yes, he and Quon Sung Chun own together the first house in my row and Quon Yick occupies part of the house. He is unmarried and they have both lived in that house many years.

Q. What is the occupation of Quon Sung Chun and Quon Yick?

A. Quong Sung Chun does nothing; his son, Quon Fong, goes out peddling sometimes. Quon Yick is a farmer.

Q. Who lives in the house in front of your house?

A. Quon Kwok Long occupies that house with wife and one son, no daughters. The son is away and I did not see him on my last visit home.

Q. What does Quon Kwok Long do?

A. He was a farmer when I was at home working in the home village.

Q. What is the name and age of his son?

A. I don't know.

Q. Did you ever see the son?

A. I have heard that he had a son but I never saw him either on my last trip or the trip before that.

Q. Do you think the son is over or under 20 years of age?

A. I think he is under 20. He is away from home most of the time working for different people. He was away all the time during my last visit home.

Q. Who lives in the house opposite your small door?

A. Quon Hen Set lives there with his wife and one son. He sometimes works as a farmer and sometimes in the market.

Q. Describe the son.

A. The son's name is Quon Shuk and he is about 18 or 20 years old. He works out as a farm laborer.

Q. Did you see the son when you were at home last?

A. I did not see him on my last visit home as he was away, but I remember seeing him on my previous visit in K. S. 34 (1908).

Q. Do all these families concerning whom you have testified live in regular five-room houses?

A. Quon Hen Set occupies one of the small two-room houses. The others occupy large houses.

Q. Who occupies the other small house—the second house in the fifth row counting from the west?

A. Quon Yum lives there alone; his wife is dead. He is about fifty years of age and sometimes works as a farmer. He had one son who is abroad.

[fol. 33] Q. Who occupies the house opposite the schoolhouse—that is the first house in the second row counting from the west?

A. Quon Kwok Shun. He is a farmer and lives there with his wife and one son.

Q. Describe the son.

A. I have never seen him at home. He was abroad the last time I was at home but I saw him on my previous visit in K. S. 34. I don't know his name.

Q. Who lives in the third house of the third row?

A. That house is vacant—there was no one living there when I was at home last.

Q. Are there any gates or a wall around your village?

A. There is no wall but there are two gates, one at each end—the head and tail of the village.

Q. Describe the gates.

A. They are of wood—wooden posts or timbers about 15 or 20 feet high and about the same width. They close at night.

Q. Who made the arrangements for the applicant's journey to the United States?

A. I sent $400 to Hong Kong to the firm of Quon Fat

Wing. I also sent a letter to my son for him to come to Hong Kong and call for the money,—to call at the firm of Quon Fat Wing.

Q. Did you ever hear of the firm of Soon Hing Hong Co.?

A. Yes. That firm is in the same building in Hong Kong.

Q. Describe the journey from your home to Hong Kong.

A. I walk from my home to Chok Hom market, then take a boat to Kong Yick station, then take a train to Bak Kai station and then take a steamer to Hong Kong.

Q. How long does the entire trip occupy?

A. About 24 hours. We started from home about 3 o'clock in the morning and reached Hong Kong at midnight, landing the next morning.

Q. Are there any additions or changes you wish to make in your testimony?

A. No changes or additions.

Q. Have you thoroughly understood the interpreter?

A. Yes.

Signature of witness in Chinese: X X X.*

Witness is the holder of certificate of identity #46585 in the name of QUON QUON THLET, aged 24 issued at the port of Boston on September 10, 1923, by Frank S. Abercrombie, immigration official in charge, attached to which is a photograph which is a good likeness of the holder. (Certificate endorsed and returned.)

Witness, sworn, testifies (brother):

Q. What are your names?

A. Quon Gong Set, given name; Quon Foon Set marriage name, no others.

[fol. 34] Q. What is your age, occupation and address?

A. Age 25, laundryman, present address, 15 Tyler street.

Q. When and where did you last testify before the immigration officials?

A. Last August when I was admitted to this country.

Q. Is that the only time you have testified?

A. Yes.

Q. Do you wish to make any changes in the testimony you gave at that time?

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[*Chinese characters not reproduced.]

A. No, everything was correct at that time.

Q. The testimony you gave at that time will be made a part of this record—do you understand?

A. Yes.

Q. Have there been any changes in your family history since you testified last year?

A. No, no changes.

Q. I will ask you to identify two photographs attached to affidavit in Boston file 2500/5929.

A. They are my father and my brother, Quon Quon Poy, the applicant. (Correct.)

Q. Whom does this photograph represent (referring to photo attached to receipt for certificate of identity in Boston file 2500/5025).

A. That is my second brother, Quon Gong You. (Correct.)

Q. Where is Quon Gong You at the present time?

A. He had some trouble with my father and went to some place near Detroit about two or three months ago and I haven't heard from him since.

Q. Where did he live prior to his departure?

A. At 15 Tyler street, Boston, same address as myself, working as a laundryman.

Q. Why do you come here today?

A. To testify for my brother, Quon Quon Poy, who is an applicant for admission.

Q. What is Quon Quon Poy's age, date of birth and birthplace?

A. Age 15, born S. T. 2-1-1 (Feb. 10, 1910) at Jon Wing village.

Q. What has he been doing in China?

A. He has been attending school at home—he began at about ten years of age.

Q. Are you and the applicant blood brothers with the same father and mother?

A. Yes.

Q. How many schools are there in your village?

A. Only one school.

Q. Did you attend the same school as the applicant?

A. Yes.

Q. Describe the schoolhouse.

A. It is located at the west end of the village. It is brick

with two or three rooms inside, earth floors. The partitions are of brick.

Q. For what purposes are the two or three rooms used?

A. The school-teacher occupies one room; sometimes the students occupy the other two rooms. These rooms are at the back of the building leaving a large room in front for recitations.

Q. Has the school any particular name?

A. The name of the school is Jung Wah Hok How.

Q. What was the name of the teacher?

A. Quon Sung Yook.

Q. Describe your home village.

A. There are seven rows with 17 or 18 houses. The village faces south. There is no head but the large doors face west.

Q. Counting from the west, how many houses in each row?

A. The first row, only the school-house.

2nd row, 3 houses on the first 3 lots

3rd row, 3 houses on first three lots

4th row, 4 houses on the 1st, 3rd, 4th and 5th lots

[fol. 35] 5th row, four houses—there is a house on the first lot, and then two or three vacant lots, and then two houses and then a small house

6th row, one small house at the lower end of the row—no others

7th row, one social hall in the first lot—no other houses.

Q. The applicant's plan of the village differs somewhat from yours. He has a less number of houses and a different distribution. Which plan is correct, yours or his?

A. I think my brother is correct.

Q. Why he should be more correct than you?

A. I may be mistaken about the small houses. There may have been changes in the small houses since I left but not in the big houses.

Q. You have mentioned two small houses—one in the 5th row and one at the lower end of the 6th row—are there any others?

A. There is also one small house in our row—it is the second house on the third lot of our row. That makes three small houses in the village all together.

Q. Who occupies the house back of yours?

A. Quon Qwok Hong with wife, son and two daughters. He is a farmer.

Q. Describe the son.

A. Quon Goon, aged 13 or 14. He was attending school at the time I came to this country.

Q. Did you ever see the daughters?

A. I have seen the daughters but I don't know their names. Their ages would be from 9 to 12.

Q. You are sure that they are younger than the son, their brother?

A. Yes, the son is older than his sisters.

Q. Who lives in the first house of the first lot of your row?

A. Quon Sung Chun and Quon Yick. Quon Sung Chun has a wife and one son, no daughters, live there; Quon Yick is unmarried.

Q. Did you ever see Quon Sun Chun's wife?

A. No, I have never seen her.

Q. How do you know he has a wife?

A. I meant that I have not seen her lately. I saw her before.

Q. About when was the last time you saw her?

A. About four or five years ago.

Q. How do you know she has not since died?

A. I was away from home working more or less so that I could not see her. But if she had died I am sure that I should have heard of it.

Q. Do you know whether Quon Sung Chun has been married more than once?

A. I don't know. I only know that he had that one wife.

Q. Describe Quon Sung Chun's son.

A. Quong Fong about 14 or 15 years of age. When I left home he was attending school.

Q. What is Quon Sung Chun's occupation?

A. He is a grocery clerk and works around at different places, being seldom at home.

Q. Do you know anyone in your village named Quon Gem Hong?

A. Yes.

Q. Where does he live?

A. He lives in the second house of the 6th (sixth) row

counting from the west. He is unmarried and lives there alone.

Q. Who lives in the first house of the fifth row counting from the head?

A. Quon Gen Hong lives there—I was mistaken when I said he lived in the sixth row.

[fol. 36] Q. Who lives in the first house of the third row, counting from the west?

A. Quon En You lives there with one son. His wife is dead.

Q. Describe the son.

A. The son is Quon Teng. He is abroad—he is much older than I am.

Q. Is Quon Teng married?

A. Yes, his wife is at home in the house with Quon En You; she has a son about 8 or 9 years old with her.

Q. Who lives in the house in front of your house in the home village?

A. Quon Kwok Long with wife and one son live there together.

Q. Describe the son.

A. Quon Gen, about 12 or 13 years old; when I left home he was working with his father as a farmer.

Q. Do you know if he ever attended school?

A. I don't know.

Q. Who lives in the house opposite your small door?

A. Quon Hen Set lives there with his wife and one son. Quon Hen Set works at Mow Gong Market, or did when I left home.

Q. Describe the son.

A. Quon Set or Shuk, a little over twenty years of age. He is farmer in the home village. He is not yet married.

Q. Is Quon Hen Set's house a full size five-room house or a small house?

A. It is only a two-room house.

Q. Do you know anyone in your village named Quon Yum?

A. Yes.

Q. Where does he lives and how much of a family has he?

A. I don't know what house he occupies and I don't know that he is married—I know that he is single.

Q. Was he ever married?

A. No.

Q. About what is his age?

A. About 17 or 18 years old. He lives with his mother. I think his father is abroad as I haven't seen him at any time.

Q. Do you know who lives in the second house of the fifth row counting from the head? That is, counting from the west?

A. That house is occupied by Quon Gim who is about 40 years old and lives there alone. I don't know whether or not he is married.

Q. Who occupies the house opposite the school-house, that is, the first house in the second row from the west?

A. Quon Kwok Shun with wife and one son, no daughters. He is a farmer.

Q. Describe the son.

A. Quon Gow, a little over 20 years of age. He is single and is a farmer.

Q. Has Quon Gow ever been abroad?

A. He has never been abroad to my knowledge.

Q. You would know if he went abroad would you not?

A. I would be likely to know it as I was not away from home more than a few months at a time.

Q. Describe the journey from your home to Hong Kong.

A. We walk from my home to Chok Hom market where we take a steamer to Gon Yick station; then a train to Bak Kai; from Bak Kai we take the steamer to Hong Kong.

Q. Have you anything further to say—any changes or additions to your testimony?

A. I want to say that Quon Gen Hong occupies the first house in the fifth row counting from the west.

Q. You have already said that. Is there anything else?

A. No.

Q. Have you thoroughly understood the interpreter?

A. Yes.

Signature of witness in Chinese: X X X.*

[*Chinese characters not reproduced.]

[fol. 37] 2500/5929

QUON QUON POY

(Sept. 12, 1924.)

Case resumed September 12, 1924, before same inspector and interpreter. (Inspector: Stockwell. Interpreter: Soo Hoo Ung.)

Interpreter sworn.

Applicant, recalled, sworn, testifies:

Q. What is your name?

A. Quon Quon Poy.

Q. Are you the same Quon Quon Poy who testified before me a day or two ago?

A. Yes.

Q. Have there been any changes among the buildings of your village during the past four or five years?

A. No.

Q. No new buildings have been erected and no old buildings torn down in the last four or five years?

A. No.

Q. Then the description you gave a day or two ago of your village represents the village as it has been for the past four or five years?

A. Yes.

Q. According to your description there are two houses in the second row counting from the west. Is that correct?

A. There should be another house in that row but I don't know who lives there.

Q. Do you know who lives in the first two houses?

A. I know who lives in the first house—that is Quon Kwok Shun—but not who lives in the second house.

Q. How long has the third house in that row been built?

A. It has been there for many years that I know of.

Q. Then how does it happen when you assisted me the other day in drawing a plan of the village you insisted on putting in only two houses for that row?

A. I forgot it the other day.

Q. How did you happen to forget it?

A. I couldn't think of that house at the time as I didn't know who occupies it.

Q. I will ask you again if there are any other changes that you wish to make in the arrangement of rows and houses in your village.

A. No, that additional house in the second row is the only change—the remainder is correct.

Q. How long have the 2nd and 3rd lots of the fifth row been vacant?

A. I only know about the lots this year. I always go out my large door and pass by on the other side and I don't see the lots.

Q. How did you happen to see the lots this year, then, if you always pass out the other side?

A. When I started for the United States I came out the other end of the village and so passed by them.

Q. Was that the only time you saw those lots this past year?

A. Yes, that was the first time I ever went out that way.

Q. Was that the first time you ever saw those lots either this year or previous years?

A. Yes, that is the first time I ever saw the lots.

Q. You claim to have lived in the fourth row ever since you were born and yet you say that you never observed the lots in the row adjoining your row until a few months ago when you started for America. Is that correct?

A. That is true.

Q. When did you first observe the number of vacant lots in the sixth row?

A. I could observe the vacant first lot from the front of the village and I have known of it for some years.

[fol. 38] Q. Are you sure that there is only one vacant lot in the sixth row?

A. I know there is only one vacant lot in front but I don't know how many there may be back of the two houses on the second and third lots. I know there is only one vacant lot in front.

Q. If anyone said there are two vacant lots in front in the sixth row would that person be mistaken?

A. He must be mistaken.

Q. Have those two houses on the 2nd and 3rd lots of the sixth row been standing there as long as you can remember?

A. I know that the two houses have been there for as many years as I can remember.

Q. Are all the houses in your row regular five-room houses?

A. All except the house in front of mine which is a three-room house.

Q. Are there any other small houses in the village?

A. Yes, the second house on the fourth lot in the fifth row is a two-room house.

Q. Has that always been a two-room house?

A. It has always been a two-room house.

Q. How do you know?

A. I have never seen the house but my mother told me that it is a two-room house opposite our small door.

Q. Are there any other small houses in the village?

A. No.

Q. Who lives in the house back of your house?

A. Quon Kwok Hong with wife and one son and two daughters.

Q. Are the daughters older or younger than the son?

A. The daughters are older than the son.

Q. How do you know that the daughters are older than the son?

A. I have seen them and they are both taller than the boy.

Q. Have they always lived at home?

A. I know their parents own the house and the daughters must live there but I don't know where they sleep.

Q. If anyone said that the son is older than the daughters he would be mistaken would he not?

A. All I know is that the daughters are taller than the son and I think they must be older.

Q. Who lives in the first house of your row?

A. Quon Sung Chun lives there alone.

Q. How about his family if any?

A. His wife is dead. He had a son who went to Havana two or three years ago—I don't know his age but I know he was over twenty years old.

Q. Is that the only son or daughter he ever had?

A. He has a little grandson, aged 4 or 5 years, with his daughter-in-law also living with him—I don't know the name of the grandson.

Q. Then there are three persons living in that house?

A. Yes.

Q. Two days ago you said that Quon Sung Chun lives there alone and that so far as you knew he had no children. How do you explain that?

A. I made a mistake the other day.

Q. How could you make such a mistake as that?

A. The daughter-in-law spends most of her time with her mother in another village and so I forgot about her.

Q. How do you know she spends so much time with her mother?

A. My mother said that she spends most of her time with her mother.

[fol. 39] Q. About how old a man is Quon Sung Chun and what is his occupation?

A. He is a farmer a little over fifty years of age.

Q. Has he always been a farmer so far as you know?

A. He has always been a farmer in the home village.

Q. Do you know where Quon Yick lives in your village?

A. He lives with Quon Sung Chum in the first house of my row.

Q. Where does Quon En You live?

A. He lives in the first house of the third row.

Q. Two days ago you say that Quon En You and Quon Yick live together in the first house of the third row counting from the west—how do you explain that?

A. I have just made a mistake. What I said two days ago is correct—Quon En You and Quon Yick live together in the first house of the third row.

Q. Is Quon Yick married?

A. No he is single.

Q. Is Quon En You married?

A. No, he is also single.

Q. Do Quon Yick and Quon En You live alone or is there someone living with them?

A. So long as I can remember the two have lived alone together.

Q. If anyone said that Quon En You lives with his daughter-in-law and grandson would that be incorrect?

A. I know that Quon En You has neither a daughter-in-law or grandson living with him.

Q. Why do you say that—because he has never been married?

A. Because I have never seen a woman or child in that house.

Q. Do you frequently go by the house?

A. Twice a day when I come home for my meals.

Q. Have you thoroughly understood the interpreter?

A. Yes.

Referred to Board of Special Inquiry by A. W. Stockwell, Inspector.

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[fol. 40] Know all men by these presents that I, Quon Mee Sing, on oath depose and say that I am an American citizen and my status as such was determined before U. S. Commissioner, John C. Zurbrick, at the port of Vancouver, B. C., June 18, 1912, when Certificate of Identity #6959 was issued to me. My status has been investigated at the port of Boston several times; see Boston file 2500/5240.

I have a son, Quon Quon Poy, whom I desire to have join me in this country and I am making this affidavit for the purpose of facilitating his admission. Photographs of my son and myself are hereto annexed.

I herewith appoint Joseph F. O'Connell as my attorney and request that he be notified of all proceedings in connection with the admission of my said son.

(Sgd.) Quon Mee Sing.

Sworn to before me this 20th day of November, 1923.
(Signed.) Ernest B. Rowe, Notary Public. My Commissioner expires Mar. 16, 1928.

(Photo.) (Photo.) Boston. No. 2500/5929, Chinese.

Copy.

[fol. 41] (Copy

Form 541

U. S. Department of Labor, Immigration Service

Medical Certificate

Port of Boston, Mass., Date: July 1, 1924.

Name, Quon Quon Poy. Age, 15. Sex, male.
Native of China. Race, ——. Date of arrival, 6/25/24.
S. S. Prince George. Class, —. Manifest No. —.

This is to Certify That the above-described person has this day been examined and is found to be afflicted with Uncinariasis, hookworm infection, that may affect ability to earn a living. Also ascaris lumbricoides and trichiurus, round and whip worm infection of intestines.

(Signed) M. M. Gilbert, A. A., Surgeon M. G. Kotler, A. A., Surgeon, U. S. Public Health Service.

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[Endorsed:] No. 55392, 626. U. S. Dist. Ct. Dist. of Mass. #2855, Civil Docket. In re Quon Quon Poy. Habeas Corpus. Record of U. S. Immigration Board.

## INDEX.


| | Page |
|---|---|
| Brief for appellant | 1 |
| Statement of case | 1 |
| Summary of argument | 2 |
| Point I. The petitioner was deprived of his liberty without a fair trial in accordance with due process of law | 3 |
| Point II. The court, pursuant to the writ of habeas corpus, was bound to hear and consider the evidence duly offered as to the citizenship of the petitioner and the lack of jurisdiction of the Department of Labor to order his deportation | 5 |
| Point III. It was error for the court to refuse the first request for ruling that the act of Congress of February 5, 1917, under which the Department of Labor adjudged the petitioner to be an alien, has no application to a son of a citizen of the United States | 6 |
| Point IV. The Congress has no power, under the Constitution, to define the word "alien" wherever used in the Immigration Act of February 5, 1917, to include "any person not a native-born or naturalized citizen of the United States" | 7 |
| Point V. In view of the error of the immigration officers and the Secretary of Labor in interpreting the law, it was the duty of the court to hear the evidence duly offered and decide the question of citizenship | 8 |


### Table of Cases Cited.


| | |
|---|---|
| Ainslee v. Martin, 9 Mass., 454-460 | 7 |
| Chin Hoy v. United States, 203 F. R., 545 | 6 |
| Chin Yom v. United States, 208 U. S., 8 | 6 |
| Ex Parte Low Joe, 287 F. R., 545 | 6 |
| Ex Parte Neilsen, 131 U. S., 176 | 6 |
| Kwock Jan Fat v. White, 253 U. S., 454, 464 | 6 |
| Johnson v. Townsley, 13 Wall., 72, 84 | 8 |

Page

Murray's Lessee v. Hoboken Land & Improvement Co., 18 How., 272 ..... 5
Ng Fung Ho v. White, 259 U. S., 276..... 6
Pennoyer v. Neff, 95 U. S., 733..... 5
Riverside Mills v. Menefee, 237 U. S., 189-193..... 5
Thompson v. Whitman, 18 Wall., 457..... 6
United States v. Bainbridge, 1 Mason, 71-78..... 7
United States v. Todd, 285 F. R., 523, 526..... 6
United States v. Woo Jan, 245 U. S., 552, 556..... 6
White v. Chin Fong, 253 U. S., 90, 93..... 6

OTHER AUTHORITIES CITED.

Act of Congress of February 5, 1917..... 4, 7
Section 16..... 4
Section 17..... 4
Revised Statutes U. S., Section 1993..... 7

# Supreme Court of the United States

October Term, 1926.

No. 68.

QUON QUON POY, Appellant,

*vs.*

JOHN P. JOHNSON,
United States Commissioner of Immigration
at the Port of Boston, Mass.

## BRIEF FOR APPELLANT.

### STATEMENT OF CASE.

The petitioner, appellant, a boy fifteen years old, arrived at the port of Boston on the Steamship Prince George, June 25, 1924, bearing an affidavit to which was attached his photograph and also the photograph of his father Quon Mee Sing. This affidavit had been approved by the immigration authorities and citizenship of the father admitted. He came from China to join his father in the United States. He was held in custody with no examination whatever from June 25 until Sept. 10, 1924, when he was questioned by a single inspector. He was further questioned on Sept. 11, 1924, and on that day his father Quon Mee Sing and his brother Quon Gong Set were examined by the same single inspector, acting alone. On Sept. 12, 1924, he was recalled and submitted to further questioning by the same single inspector, acting alone. He was then, on the date last named, first taken before a Board of Special Inquiry, so called, and was informed that the testimony given before the single inspector as aforesaid "will be made a part of the present pro-

ceedings. Do you understand? Answer. Yes." On the same day, Sept. 12, the following questions and answers were recorded, to wit: "Q. You are informed of your right to have a relation or friend present *at this hearing.* Do you desire to avail yourself of this right?" To which this boy, fifteen years old, without counsel, replied: "No." "Q. Do you waive your right to have present a relative or friend and are you now willing to proceed with the hearing?" To which this boy, fifteen years old, without counsel or advice, confined three months already without having been permitted to see a relation or friend, replied: "Yes." The applicant was then very briefly examined before a board of special inquiry and the case deferred to Sept. 25, when the Medical Officer in Charge reported, after "thorough physical examination," "Although he appears older than the age claimed, the X-ray plates showed skeleton formation characteristic of a person in the vicinity of fifteen years of age, which is approximately the age claimed." Without further examination, a Board of Special Inquiry not the same as before, on Sept. 12, entered a not satisfied decision; and on October 1, 1924, more than three months after his arrival, *another* Board, only one member of which had seen any of the witnesses, announced to this boy: "You have been refused admission to the United States by this Board as a Chinese alien." See Memorandum *re* Record of Proceedings Before the U. S. Immigration Board; Record, page 5.

The questions presented in this case are the following, to wit:

I. Was the petitioner deprived of his liberty without fair trial in accordance with due process of law?
(See fourth request for ruling, R. p. 7, and third assignment of error, R. page 8.)

II. Was the Court pursuant to the writ of habeas corpus bound to hear and consider evidence duly

offered as to the citizenship of the petitioner and *the lack of jurisdiction* of the Department of Labor to order his deportation?
(See second request for ruling, R. p. 6, and fourth assignment of error, R. p. 8.)

III. Was it not error for the court to refuse the first request for ruling (see R. page 6) that the Act of Congress of February 5, 1917, under which the Department of Labor adjudged the petitioner to be an alien, has no application to a son of a citizen of the United States?
(See second assignment of error R. p. 7.)

IV. Is not the first section of the Act of Congress of Feb. 5, 1917, regulating immigration of aliens and residence of aliens in the United States unconstitutional in that it designates as aliens any person or persons not native born or naturalized citizens of the United States thereby unlawfully discriminating against such as are declared to be citizens by section 1993 of the Revised Statutes of the United States? (See first assignment of error, R. p. 7).

V. In view of the error of the immigration officers and the Secretary of Labor in interpreting the law was it not the duty of the Court to hear the evidence duly offered and decide the question of citizenship?
(See bill of exceptions, R. pps. 5, 6 and 7.)

## BRIEF OF THE ARGUMENT.

### I.

1. The petitioner did not have a fair trial and was not accorded fair treatment by the immigration officers under the law, and the rules promulgated by the Department of Labor. The petitioner was detained three months without any examination whatever: then was subject to the merest semblance of the trial provided by

law for *aliens*. It is perfectly clear that the examination of aliens must be by a board of special inquiry: [See Section 16, of the Act of Congress of Feb. 5, 1917 and section 17 of the same act] that such board of special inquiry shall see and examine the witnesses: and that such board of special inquiry, having seen and examined the witnesses, is the sole authority to decide as to landing or deporting of alien applicants; whereas the petitioner's case was practically tried and determined by a single inspector, without any board whatever until the very end of his long delayed trial. Said section 17 says the decision "shall be rendered" on appeal, "*solely upon the evidence adduced before the board of special inquiry.*" It is clear that this law requires that the witnesses shall appear before such board; and that it shall be *one* board; and that the case shall be decided by one and the same board which has seen the witnesses and heard their testimony.

Moreover this law provides: (same section 17)

"All hearings before such boards shall be separate and apart from the public, but the immigrant may have one friend or relative present." It is to be noted that after all the evidence had been taken, at the very conclusion of the trial, this boy is told of this, and asked if he waived the right. This is manifestly a sham, a mere pretense of conforming to the law, and we may well doubt if the applicant had the least comprehension of his right, or of the waiver, or what it all meant.

It appears in the bill of exceptions, Record, page 6, that,

"The court found that the petitioner was not allowed to see counsel or friends until after all the testimony had been taken by the Board of Special Inquiry; that his counsel was not permitted to be present at or to participate in the examination of the petitioner or his witnesses; nor to know what the petitioner had testified, nor what the evidence was, until the record had been closed and a

conclusion had been reached adverse to the petitioner; and that at that point, for the first time, the petitioner and his counsel were allowed to see the record and to know what the evidence was on which said conclusion had been reached and the adverse decision thereon rendered."

We submit that such a trial as that described is not according to law, is obviously unfair to this applicant, and is not due process of law under the constitution.

What is due process of law? "The constitution contains no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied to ascertain whether it be due process. It is manifest that it was not left to the legislative power to enact any process which might be devised. The article is a restraint on the legislative as well as on the executive and judicial powers of the government and cannot be so construed as to leave Congress free to make any process "due process of law" by its mere will." Justice Curtis delivering the opinion of the Court in Murray's *Lessee et al v. Hoboken Land and Improvement Company,* 18 Howard 272.

"Proceedings in a court of justice to determine the personal rights and obligations of parties over whom that Court has no jurisdiction do not constitute due process of law." (Justice Field delivering the opinion of the court in *Pennoger* v. *Neff*, 95 U. S. 733, quoted by Chief Justice White delivering the opinion of the court in *Riverside Mills* v. *Menefee,* 237 U. S. 189-193).

II.

It was the duty of the Court to hear and consider evidence duly offered as to citizenship of the petitioner. The evidence was competent and material as to the jurisdiction of the immigration authorities to annul the citizenship and deport the applicant. The board of inquiry is not a court but an instrument of executive power and as the executive power cannot take away citizenship, neither can its instruments annul citizenship. A party

is entitled to habeas corpus, not merely where the court is without jurisdiction of the cause, but where it has no constitutional authority or power to condemn the prisoner.

*Ex parte Neilsen*, 131 U. S. 176.

Want of jurisdiction may be shown either as to the subject matter, or the person.

*Thompson* v. *Whitman*, 18 Wall 457.

The court on habeas corpus should have determined the merits of the claim of father and son as to the latter's citizenship.

*Chin Yom* v. *United States*, 208 U. S. 8.

See also

*Ng Fung Ho* v. *White*, 259 U. S. 276.

*White* v. *Chin Fong*, 253 U. S. 90, 93.

*United States* v. *Woo Jan*, 245 U. S. 552, 556.

*Kwock Jan Fat* v. *White*, 253 U. S. 454, 464.

*Chin Hoy* v. *United States*, 293 F. R. 750.

*Ex parte Low Joe*, 287 F. R. 545.

*United States* v. *Todd*, 285 F. R. 523, 526.

## III.

All of the language of the immigration acts plainly relates to *aliens*. It is not to be inferred that in the absence of any specific provision as to determination of citizenship the congress intended authority to be given to subordinate officers to annul citizenship and banish to perpetual exile those recognized as citizens by our laws. Here is a father who is indisputably a citizen, duly acknowledged as a citizen with children who are citizens, authorized to bring into the country his minor

son to whose company and service he has an undoubted right by law, and the father was a party to the petition in the District Court.

See

*United States* v. *Bainbridge*, 1 Mason 71-78,

and cases cited in opinion by Judge Story.

"Protection and allegiance are reciprocal. The sovereign cannot refuse his protection to any subject, nor discharge him from his allegiance without his consent." Parsons C. J. delivering the opinion of the court in

*Ainslee* v. *Martin*, 9 Mass. 454-460.

## IV.

We deny the power of Congress under the Constitution to define the word "alien" wherever used in the Immigration Act of February 5, 1917, to include "*any person not a native born or naturalized citizen of the United States.*"

We submit that there is in this definition an unjust discrimination against the persons declared to be citizens by section 1993 of the Revised Statutes of the United States.

It is too plain to admit of argument that a citizen of the United States coming within its jurisdiction is entitled to the equal protection of the laws.

Thus to brand a citizen of the United States as an "*alien,*" in advance of any hearing before the department or its officers, or any tribunal, judicial or otherwise, is to make an unjust discrimination and emphasize an unjust prejudice, and goes far to make a fair hearing impossible, and to prevent that equal protection of the laws to which all citizens are entitled under the Constitution. Congress can make citizens by the laws for naturalization, and by declaring the existing law, as in section 1993 of the Revised Statutes of the United States; but

Congress has no power, either directly by enactment, or through immigration laws authorizing departmental regulations as to immigrants, to deprive this Chinese-American boy of his citizenship and the fair trial to which he is entitled.

## V.

The trial of the applicant was unfair. He was condemned to exile without hearing. The claim of his father to his company and service was ignored. Whatever may be said about the applicant as mere immigrant, the father had a right as a citizen of the United States to a determination of his rights in Court.

There has always existed in the courts the power to inquire into and correct mistakes, injustice and wrong, in both Judicial and Executive action, however solemn the form which the result of the action may assume, when it invades private rights. See opinion of the Court by Justice Miller in *Johnson* v. *Townsley*, 13 Wall. 72, 84.

And finally we submit the following propositions which seem to us self evident; and, moreover, conclusive to the effect that the judgment of the District Court should be reversed, the case remanded, the writ to issue and trial to be had in that court of the question of citizenship.

First: To decide that the immigration officers have absolute and final determination of the facts on which their jurisdiction to imprison and deport depends so that such facts cannot be inquired into on habeas corpus is in effect to suspend the writ of habeas corpus in time of peace.

Second: To decide that Congress can by legislation authorize administrative officers to deport citizens without any right of appeal to the courts is virtually to hold that Congress may pass a bill of attainder in defiance of the constitution.

Third: To decide that citizenship by birth can be annulled by administrative officers under a law passed many years after birth is to hold that a retrospective law can deprive a citizen of the vested, inalienable rights accruing to him by virtue of such citizenship, in disregard of the prohibition of the constitution of the United States.

Respectfully submitted,

WARREN OZRO KYLE,
*of Counsel for Appellant.*

# INDEX


| | Page |
|---|---|
| Opinion below | 1 |
| Jurisdiction | 1 |
| The Question | 2 |
| Statement | 2 |
| Summary of Argument | 25 |
| Argument: | |
| I. The applicant was not entitled to a judicial hearing of his claim of citizenship | 26 |
| II. There was evidence to support the conclusion of the immigration officers | 27 |
| III. The hearing was in accordance with the statutes and rules and did not deny due process | 27 |
| Conclusion | 29 |


## AUTHORITIES CITED


| | |
|---|---|
| Cases: | |
| *Fisher* v. *Baker*, 203 U. S. 174 | 3 |
| *Givens* v. *Zerbst*, 255 U. S. 11 | 3 |
| *Kwock Jan Fat* v. *White*, 253 U. S. 454 | 26 |
| *Ng Fung Ho* v. *White*, 259 U. S. 276 | 26 |
| *United States* v. *Ju Toy*, 198 U. S. 253 | 26 |
| *United States* v. *Sing Tuck*, 194 U. S. 161 | 26 |
| *United States* v. *Dunton*, 297 Fed. 447 | 28 |
| Statutes: | |
| Judicial Code, Sec. 238 | 2 |
| Act of February 5, 1917, c. 29, 39 Stat. 874, 886: | |
| Sec. 16 | 4 |
| Sec. 17 | 5 |
| Act of February 16, 1875, c. 77, 18 Stat. 315 | 3 |
| Miscellaneous: | |
| Equity Rule No. 46 | 3 |
| Immigration Rules of July 1, 1925: | |
| Rule 14, Subdivision G | 7 |
| Rule 23 | 7 |
| Immigration rules governing admission of Chinese, Rule 3, Subdivisions 3 and 4 | 6 |

# In the Supreme Court of the United States

OCTOBER TERM, 1926

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No. 68

QUON QUON POY, APPELLANT

*v.*

JOHN P. JOHNSON, U. S. COMMISSIONER OF IMMIGRATION at the port of Boston, Mass.

---

*APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS*

---

## BRIEF FOR APPELLEE

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### OPINION BELOW

No opinion was filed by the District Court. (R. 5.)

### JURISDICTION

The judgment to be reviewed was entered December 16, 1924. (R. 5.) Petition for appeal was filed and allowed December 31, 1924. (R. 7.) The District Court discharged the writ of habeas corpus attacking the appellant's detention by the Commissioner of Immigration under an exclusion order. The petition for the writ alleged that the

immigration officers had denied the petitioner a fair hearing and that he was deprived of his liberty without the due process to which he was entitled under the Constitution of the United States. (R. 2.) The court below necessarily decided the question, and it is covered by the assignments of error. (R. 8.) Direct appeal was properly taken under Section 238 of the Judicial Code as it stood prior to the effective date of the Act of February 13, 1925.

### THE QUESTION

The appellant is a Chinese seeking admission to the United States on the ground that he is a citizen, because the son of Quon Mee Sing, a citizen. The question presented is whether the immigration officers deprived the appellant of a fair hearing, and consequently of due process of law, on the single question of fact as to whether he is the son of Quon Mee Sing. The appellant also contends that he was entitled under the Constitution to a judicial hearing of his claim to citizenship without regard to the action of the immigration authorities.

### STATEMENT

This is an appeal from an order discharging a writ of habeas corpus. The appellant, Quon Quon Poy, applied for admission to the United States, claiming to be a citizen of the United States, because, as he claims, he is a son of Quon Mee Sing, who is a citizen.

The nature of the case required the court below to examine the record of the proceedings of the immi-

gration officers, and that record was made a part of the return to the writ (R. 4), was admitted in evidence (R. 6), and was transmitted to this Court by the court below (R. 5), but the appellant has not caused it to be printed.

In the printed record appears what is labeled a bill of exceptions. (R. 5.) Review of orders in habeas corpus proceedings must be by appeal, not by writ of error. *Fisher* v. *Baker*, 203 U. S. 174, 182. An appeal brings up the entire record. Bills of exceptions are authorized on writs of error. There is a statute (Act of February 16, 1875, c. 77, 18 Stat. 315) which provides for bills of exceptions in admiralty cases where framed issues are submitted to a jury, and an Equity Rule, No. 46, authorizing a bill of exceptions in appeals in equity cases for the sole purpose of reviewing the action of the lower court in excluding evidence. We have found no statutory or other authority for a bill of exceptions on an appeal in habeas corpus proceedings which can have the effect of excluding this Court from consideration of the whole record. *Givens* v. *Zerbst*, 255 U. S. 11, 20–21.

The so-called bill of exceptions in this case purports to state some things disclosed by the immigration record, and in this aspect it is not a bill of exceptions in any sense. We call attention to this state of the record because the so-called bill of exceptions is an incomplete and inaccurate statement of proceedings before the immigration officers, and some statements in it appear to directly conflict with the record of the immigration proceedings.

The case depends upon an accurate understanding of what took place before the immigration officers, and we submit that the so-called bill of exceptions should be disregarded, and the Court should examine the immigration record for itself.

This statement of the case is therefore based on the transcript of the immigration proceedings sent up by the court below.

The District Court proceeded on the theory that if there was a fair hearing before the immigration officers on the question of the appellant's paternity, no judicial inquiry into his citizenship was authorized, and, on examination of the record of the immigration proceedings, having determined that the hearing was fair, and the conclusion of the immigration authorities not without support in the record, it discharged the writ of habeas corpus, refusing then to institute an independent judicial inquiry on the question of citizenship.

Quon Quon Poy, a boy of 15, arrived at the port of Boston on June 24, 1924, and sought admission as the son of Quon Mee Sing, a citizen. He was excluded because it was not believed the relationship exists. The procedure established by statute and regulations of the Department of Labor applicable to such cases may be outlined as follows:

Section 16 of the Act of February 5, 1917 (chap. 29, 39 Stat. 874, 886), contains the following:

> Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond doubt

> entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Labor is permitted by this Act, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal.

Section 17 of the Act provides that boards of special inquiry shall be appointed by the Commissioner of Immigration; that they shall consist of three members, and shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. The section also provides (p. 886):

> All hearings before such boards shall be separate and apart from the public, but the immigrant may have one friend or relative present under such regulations as may be prescribed by the Secretary of Labor. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decisions of any two members of the board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is

so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry.

Subdivisions 3 and 4 of Rule 3, of the rules governing the admission of Chinese, provide:

* * * Hearings before the boards "shall be separate and apart from the public"; but the alien may have one friend or relative present after the preliminary part of the hearing has been completed: *Provided,* First, that such friend or relative is not and will not be employed by him as counsel or attorney; second, that, if a witness, he has already completed the giving of his testimony; third, that he is not the agent or a representative at an immigration station of an immigration aid or other similar society or organization; and, fourth, that he is either actually related to or an acquaintance of the alien.

SUBD. 4. *Introduction of additional evidence.*—If upon examining the applicant and the witnesses appearing in his behalf the board of special inquiry does not conclude that the applicant is admissible, notice shall be served upon the applicant or his attorney to that effect, such notice to state the respect or respects in which the evidence is deemed by the board of special inquiry to be insufficient. If the applicant or his attorney within five days thereafter expresses a desire to introduce additional evi-

> dence, ten days from the date of the first mentioned notice shall be allowed for that purpose. If neither the applicant nor his attorney thus indicates a desire to introduce additional evidence, the case shall be closed.

There is nothing in these statutes or rules which prohibits the board of special inquiry from receiving the record of testimony given by witnesses in the preliminary hearings before the examining inspector.

Subdivision G of Rule 14 of the immigration rules of July 1, 1925, provides:

> Whenever a record on appeal has been sent to the department, and either before or after receipt of a decision affirming an excluding decision the local immigration officals learn of new evidence of such relevancy and materiality as in their opinion to require that, in justice to the alien or the United States, it be considered by the board, they may stay deportation and request permission to reopen the case * * *.

Rule 23 of the Immigration Rules of July 1, 1925, authorizes commissioners of immigration and inspectors to subpœna witnesses and provides that a board of special inquiry may subpœna witnesses at the request of an alien or his authorized representatives.

The record shows that the foregoing provisions and rules were not violated.

Preliminary examination of the applicant by Inspector Stockwell and an interpreter commenced

September 10, 1924. Quon Quon Poy appeared without being accompanied by friend or counsel, was sworn and examined at length as to his life in China. On September 11, 1924, the hearing continued, and the alleged father, Quon Mee Sing, offered himself as a witness and was sworn and examined at length, and on the same day Quon Gong Set, an alleged brother of the applicant, aged 25, offered himself as a witness and was fully examined. These witnesses said their testimony covered all they desired to say.

On September 12, 1924, the hearing before the inspector was continued, the applicant being recalled alone, and again examined by the inspector. The applicant was intelligent, had attended school, and stated that he thoroughly understood the interpreter. No other witnesses offered themselves or were produced by or for the applicant. That his case was then being looked after by an attorney is disclosed by the subsequent proceedings, although the attorney was not, under the rules, permitted at these preliminary hearings, or at the later hearing before the board of inquiry. At the close of the inspector's hearing on September 12th, the case was immediately referred to a board of special inquiry consisting of Inspector Stockwell, who had heard the preliminary statements, and two others. The applicant was present, without counsel or relative. On being sworn, at the opening of the proceedings before the board the following took place:

Q. What is your name?

A. Quon Quon Poy.

Q. You are informed of your right to have a relative or friend present at this hearing. Do you desire to avail yourself of this right?

A. No.

Q. Do you waive your right to have present a relative or friend and are you now willing to proceed with the hearing?

A. Yes.

Q. You are the same person who was examined by me on September 10 and again this morning?

A. Yes.

Q. Record of the testimony offered by you on those occasions will be made part of the present proceedings. Do you understand?

A. Yes.

Q. Since your first appearance your alleged father, Quon Mee Sing, and your alleged brother, Quon Gong Set, have been examined and the record of your testimony will be made a part also of the present proceedings. Do you understand?

A. Yes.

The applicant was then further examined in the presence of the board. Neither the alleged father nor the alleged brother asked for leave to repeat before the board the testimony given before Inspector Stockwell.

At the close of the board's hearing, September 12th, proceedings were deferred for further medical examination.

The board of special inquiry met again September 25, 1924, and the record of that meeting is as follows:

BSI 4. (2500/5929)

IN RE QUONG QUONG POY

Rehearing September 25, 1924, by Board of Special Inquiry.

Inspector A. W. Stockwell, Chairman, Inspector J. V. Fitzgerald, Inspector F. A. McCarthy, Recorder.

EAST BOSTON, MASS., *Sept. 25, 1924.*

(Previous record read and considered.)

*Note.*—This case was deferred September 12, 1924, for further medical examination. The applicant, appearing to be older than the age claimed, was given a thorough physical examination and under date of the 23d instant the Medical Division at this station reported as follows: "In re Quon Quon Poy, male, Chinese, ex SS Prince George, June 25, 1924.

"In reply to your request, the above-named Chinese applicant was given a thorough physical examination, including X-ray plates, with a view to determining his approximate age. Although he looks older than the age claimed, the X-ray plates showed skeleton formation characteristic of a person in the vicinity of fifteen years of age, which is approximately the age claimed.

"Respectfully,

"(Sgd.) A. J. NUTE,

*"Medical Officer in Charge."*

By CHAIRMAN. The *citizenship* of the alleged father, Quon Mee Sing, was favorably passed upon by the Bureau in its letter No. 54820/158 of February 13, 1920. (See Boston file 2500/2161.) The claimed *relationship,* however, is in doubt.

1. The applicant, Quon Quon Poy, claims to be native of, and always to have resided in a Chinese village composed of seven rows containing 16 or 17 buildings. In spite of the comparatively simple task of describing this small village, however, the applicant and his two witnesses (the alleged father and the alleged prior-landed brother) failed of reasonable agreement in their respective descriptions.

In an attempt to clear up some of the discrepancies during cross-examination the applicant, who claims to have lived in the fourth row of his village ever since birth, asserted that he had never seen the lots in the fifth row (adjoining his own row) until the day of his departure for America when he left from that side of his house.

When it came to a description of the sixth row of the village the applicant asserted and reasserted that there is only one vacant lot at the head of that row followed by two houses on the second and third lots. The alleged father, on the other hand, testified that there are two vacant lots at the head of that row followed by a house on the third lot. The alleged prior-landed brother states that all the lots in that row are vacant save for

one small house at the lower end of the row. Other points of disagreement exist but the foregoing illustration is sufficient.

2. There are several discrepancies regarding the occupancy of houses in the home village only one or two of which need be cited here.

On his first appearance the applicant asserted that the family in the house directly back of his in the same row consists of Quon Quok Hong with wife, one son and two daughters; that the son is aged 13 or 14 and the daughters are between 15 and 20 years of age. On cross-examination he again asserted that the daughters are older than the son, explaining that they are "taller" than the son and must be older. The alleged father testified that there are no daughters in this family, while the alleged brother claimed that the daughters are younger than the son with ages ranging from 9 to 12. It is difficult to account for such discrepancies in reference to the family of a next-door neighbor.

3. Questioned as to the occupancy of the first house in his row, separated by only two lots from his own house, the applicant originally testified that it is occupied by Quon Sung Chun, a widower, who lives there alone and who, "so far as I know, never had any children." At his second appearance the applicant testified that Quon Sung Chun had a son who went to Havana several years ago, but that the son's wife and her son, aged 4 or 5, now live with Quong Sung Chun.

The alleged father also stated that the first house in his row belongs to Quon Sung Chun, but that the latter is married and that his wife and one son, aged "a little over ten years," live with him. The alleged brother also agrees that Quon Sung Chun lives in the first house of that row with his wife and one son, the latter, however, being 14 or 15 years old and attending school. (If this were true the son apparently would be a schoolmate of the applicant.)

The alleged brother further testified that another man, named Quon Yick, also resides with Quon Sung Chun in the same house. The alleged father agrees with the alleged brother in respect of Quon Yick, but the applicant states that Quon Yick lives with Quon En You in the next (third) row of the village.

4. The applicant was questioned at his first appearance, and again on cross-examination, regarding the occupancy of the first house in the third row which adjoins the row in which his own house is located. On each occasion he testified that that house is occupied by Quon En You and Quon Yick, both unmarried; "so long as I can remember the two have lived alone together."

As stated above both the alleged father and the alleged brother testified that Quon Yick lives with Quon Sung Chun in the first house of the fourth row.

Concerning Quon En You the alleged brother states that he is a widower with one son who is abroad. The alleged father testi-

fied regarding the existence of Quon En You's son, adding that the son's wife and child (aged 8 or 9) reside in the house with Quon En You.

5. When first questioned about the family living in the house opposite the small door of his own house the applicant stated that Quon Hen Set resides there with his wife and one son aged about ten years who "has not yet entered school." On cross-examination, however, the applicant testified that the son is 13 or 14 years of age and attended school with him in the home village. The alleged father describes this son of Quon Hen Set as 18 or 20 years of age working out as a farmer; and in support of the claimed age added that he saw this son when he (the witness) visited China in 1908. The alleged brother also testifies that Quon Hen Set's son is a little over 20 years of age and is employed as a farmer.

In view of the foregoing I am not satisfied that the claimed relationship has been reasonably established and I therefore move that the applicant be given the usual time in which to submit additional testimony.

Inspector J. V. FITZGERALD. I second the motion.

Inspector F. A. MCCARTHY. It is unanimous.

Not satisfied, September 25, 1924.

A. W. STOCKWELL,
*Chairman.*

F. A. MCCARTHY,
*Recorder.*

Thereupon the following letter was sent to applicant's attorney:

No. 2500/5929

QUON QUON POY

U. S. DEPARTMENT OF LABOR,
IMMIGRATION SERVICE,
OFFICE OF COMMISSIONER,

*East Boston, Mass., September 26, 1924.*

Hon. JOSEPH F. O'CONNELL,
*11 Beacon Street, Boston, Mass.*

DEAR SIR: In re application of above-named for admission into the United States at this port as son of a citizen you are advised that the Board of Special Inquiry hearing the case has entered the following preliminary decisions:

*Satisfied as to* citizenship of alleged father.

*Not satisfied as to* claimed relationship.

You are, therefore, allowed five days in which to state whether or not you wish to submit any additional evidence and, if so, five more days will be allowed you for that purpose.

If you do not wish to submit any additional evidence, please so advise in order that the case may be closed and a decision rendered of which you would be advised to enable you to exercise your right of appeal and examine the record.

Very truly yours,

JOHN P. JOHNSON,
*Commissioner.*

And the applicant's attorney responded as follows:

SEPTEMBER 29, 1924.

COMMISSIONER OF IMMIGRATION,

*East Boston, Mass.*

DEAR SIR: In the case of Quon Quon Poy, Boston file 2500/5249 in which you have entered a not-satisfied decision, permit me to say the applicant has no further testimony to offer and desires to appeal.

Will you kindly send me the attorney's copy of the testimony so that the appeal may be perfected.

Very truly yours,

(Sgd.) JOS. F. O'CONNELL.

JFO/MW

Thereupon the Board of Inquiry again met on October 1, 1924, and the record of its proceedings is as follows:

No. 2500/5929. B. S. I. 7.

IN RE QUON QUON POY

EAST BOSTON, MASS., *October 1, 1924.*

Rehearing in the case of Quon Quon Poy, before a Board composed of:

Inspectors Stockwell, Chairman; Jensen; McCarthy, Recorder; Interpreter Yee Chew Yim.

Previous record read and accepted.

NOTE.—On September 25, 1924, a "Not satisfied" motion was entered in this case and the applicant accorded the usual time in which to submit additional evidence. In a

communication dated September 29th the attorney in the case, Hon. Joseph F. O'Connell, advised this office that he had no further testimony to offer and that the case might be closed.

Applicant recalled, sworn, testified:

Q. What are your names?

A. Quon Quon Poy is my only name.

Q. Are you the same Quon Quon Poy who appeared before me several times last month?

A. Yes.

Q. Do you remember what day you left Hong Kong?

A. The 4th month, 25th day, this year. (May 28, 1924.)

Q. Who purchased your steamship ticket?

A. The manager of the Quong Fat Wing store in Hong Kong.

Q. According to your previous testimony your father sent the money for your passage to Soon Hing Hong Co. at Hong Kong, and you went to the office of that Company, obtained the money and bought your own ticket for the U. S. How do you explain that?

A. I was mistaken when I said the money was sent to Soon Hing Hong Co. My father sent the money to the Quong Fat Wing store and I went with the manager of that company to buy the ticket. The manager bought the ticket. I don't know how much he paid for it.

By CHAIRMAN. In connection with the "Not Satisfied" motion rendered in this case on September 25th, the citizenship of the alleged father, Quon Mee Sing, was recognized, but the Board was not satisfied as to the existence of the claimed relationship.

In the absence of additional evidence I am still of the opinion that the claimed relationship has not been reasonably established. I therefore move that the applicant, Quon Quon Poy, be excluded as a Chinese alien not a member of any of the exempt classes entitled to enter or remain in the United States; also as an alien afflicted with uncinariasis, hookworm infection, which may affect ability to earn a living; and also as an alien likely to become a public charge.

Inspector JENSEN. I second the motion.

Inspector MCCARTHY. I make it unanimous.

To applicant: You have been refused admission to the United States by this Board as a Chinese alien not a member of any of the exempt classes entitled to enter or remain in this country, this Board not being satisfied of existence of relationship which you claimed to Quon Mee Sing as your alleged father. You have also been refused admission as an alien afflicted with uncinariasis, hookworm infection, which, as indicated by the Medical Certificate issued in your case, may affect ability to earn a living; and also as an alien likely to become a public charge.

From this decision you have the right of appeal to the Secretary of Labor at Washington, D. C., to whom in the event of an appeal the entire record in your case will be forwarded for review. Do you wish to appeal?

A. I will leave it to my father.

Q. In the event of your deportation you will be returned to the country whence you came, by and at the expense of the transportation line bringing you here, in the same class of travel by which you arrived. Do you understand?

A. Yes.

Q. Have you anything further to say?

A. No.

Q. Have you thoroughly understood the Interpreter?

A. Yes.

Excluded, October 1, 1924.

(Sd.) A. W. STOCKWELL,
*Chairman.*

F. A. MCCARTHY,
*Recorder.*

On October 2, 1924, the following letter was addressed by the Commissioner to the applicant's attorney:

OFFICE OF THE COMMISSIONER,
*East Boston, Mass., October 2, 1924.*

Mr. JOSEPH F. O'CONNELL,
*11 Beacon Street, Boston, Mass.*

DEAR SIR: Receipt is acknowleged of your letter of the 29th ultimo, stating that you desire the case of Quon Quon Poy closed, and

copy of testimony forwarded to you in order to perfect an appeal.

In compliance therewith, please find enclosed said copy, consisting of twenty-six (26) pages, receipt of which kindly acknowledge.

The enclosed copy is to be returned when the case of Quon Quon Poy is finally disposed of.

(Signed) JOHN P. JOHNSON,
*Commissioner.*
By L. C. WEBB.

The case came before the Board of Review on appeal on November 1st, the applicant's attorney appearing. The conclusions of the Board of Review approved by the Secretary are as follows:

Board of Review memorandum 38–37 and 36.
Page 38.
BOSTON, *November 1, 1924.*

55392/626.

In re: Quon Quon Poy, aged 15.

This case comes before the Board of Review on appeal.

Attorney Joseph F. O'Connell granted a hearing.

This is the case of a fifteen-year-old Chinese boy who arrived at the port of Boston on June 25, 1924, and sought admission as the son of a citizen. He was excluded because of the fact that it was not believed that the relationship exists, and also as an alien afflicted with a physical disability which might affect his ability to earn a living, and as a person likely to become a public charge.

The record shows that the alleged father, Quon Mee Sing, is a native born citizen of the United States, and, therefore, if it is finally held that the relationship is established, the applicant is a citizen and all causes of exclusion fall.

The alleged father made a trip to China in 1908, returning in 1912. He again went to China in 1920, returning in 1922. The alleged father's file, No. 1097, which contains a record of his examination upon the occasion of his return on June 1, 1912, has a material bearing on this issue. He was asked

Q. Have you any children?

A. Two boys.

Q. What are their names and ages?

A. Quong Gong Sick, 13 years old; Quong Gong Yow, 12 years old.

Q. What were the dates of their births?

A. Quon Gong Sick was born K. S. 26–1–15 and Quon Gong Yow was born K. S. 28–12–20.

Q. Then these boys were both born before you returned to the United States the first time?

A. Yes.

Q. How old was Quon Gong Yow when you left China?

A. One year old.

Q. Did you ever have any other child except these two boys?

A. No.

Q. Have you any adopted children?

A. No.

The applicant claims to have been born on February 10, 1910, which was over two years prior to the time that the alleged father stated he had but two children and never had any other children. The two children of the alleged father referred to in 1912 have since been admitted to the United States. It will, therefore, be seen that this is a clear-cut prior adverse testimony case. There are other reasons which lead the Board of Review to believe that this boy is not the son of his alleged father. For instance, he was examined in 1920, at which time his birth date was given as S. H. 3–1–1, which would be January 30, 1911, whereas it is now given as February 10, 1910, which would be S. H. 2–1–1. Again, in 1922, the alleged father testified that he had four boys, and as to the first two gave the day and month in which they were born, stating that he did not know the year. However, for this boy he at that time stated, "I do not know the year, month, or day of birth." He was able to give the exact birthday for his next child.

The record is exceptionally unfavorable to the applicant. In fact, it would appear that the applicant lacks considerable knowledge concerning his family life, and has advanced the most ridiculous explanations imaginable to apparently cover up his ignorance. The applicant claims to come from the village of Joan Wing, which is composed of only about sixteen houses. One would think that a boy who has lived in such a small

village all his life thus far would be in position to know practically every person in such a small village, and to describe correctly the house in which they live. However, the applicant states on one occasion that two houses in this village were torn down, and when asked when he first saw that these buildings had been torn down, he replied " the first time I knew the buildings were torn down and that the lots were vacant was the day when I left home for the United States." Again he states that he never saw the houses opposite the small door of his own house until the day of his departure for the United States. This statement is ridiculous as it is impossible. The boy is not blind, and has been able to attend school for the past few years. He admits that he has been proceeding from the school to his house daily for the purpose of securing his meals and from this it will be seen that it would not have been possible for him to have lived such a life as to warrant the statements made by him.

One of the prior landed alleged brothers, Quon Gong Set, appeared as a witness. While there are discrepancies between the testimony of the applicant, the alleged father, and the prior landed alleged brother, the testimony of the prior landed brother and the alleged father is in much better agreement than is their testimony when compared with that of the applicant. The applicant has disagreed with him otherwise concerning approximate ages of immediate neighbors, the number of people in the village, etc.

Strange to say, there are two favorable features to this case, and these are about the only favorable features. There is a good resemblance between the photograph of the applicant and his father. (See Boston File 2500/5229.) However, such a resemblance is far from being conclusive of the claims advanced. Again the Board of Special Inquiry thought that this applicant was older than the age claimed, but Dr. Nute of the Public Health Service has issued a certificate to the effect that an X-ray examination shows the boy to be just about the age claimed.

After a careful consideration of the entire case, the Board of Review is of the opinion that the alleged father's very positive statements in 1912 to the effect that he had no such son, his subsequent doubtful statements concerning the birthplace of this boy, and the applicant's lack of knowledge of matters which clearly should be within his memory, clearly overcome the few favorable features existing in this case, and it is, therefore, believed he has fallen far short of bearing the burden of proof, placed upon him by law, of establishing that he is in truth and in fact the son of his alleged father. The finding that he is not the son of his alleged father, and as he is otherwise without a status entitling him to admission to the United States, make it necessary to recommend that the excluding decision be affirmed.

It is recommended that the appeal be dismissed.

F. J. PHILLIPS,
*Acting Chairman, Secretary & Commissioner General's Board of Review.*

ES:H

So ordered.

(Sgd.) ROBE CARL WHITE,
*Second Assistant Secretary.*

There is no suggestion in the record that the applicant or his alleged father or his attorney suggested or requested that the testimony taken before Inspector Stockwell should be repeated by the witnesses in person before the full Board.

**SUMMARY OF ARGUMENT**

The principal argument of the appellant that he was entitled under the Constitution to a judicial determination of his claim of citizenship unaffected by findings of the immigration officers, is directed to a point already disposed of by this Court adversely to his contention. It is settled that a person who is in legal contemplation without the borders of the United States seeking entry is not entitled under the Constitution to a judicial hearing of his claim of citizenship. The procedure followed by the immigration officers constitutes due process of law, and their determination of the question of citizenship, after a fair hearing and with evidence to support it, concludes the matter. In the present case the only question is whether the applicant had a fair hearing on the issue of fact as to whether he

is the son of an American citizen. The record discloses such numerous and substantial discrepancies in the statements of the witnesses as to justify the decision. The applicant was not denied a fair hearing by the rule forbidding the presence of attorneys at the hearing before the Board of Inquiry. The record shows a fair hearing and ample opportunity was given to his counsel to present evidence before the Board.

## ARGUMENT

### I

### THE APPLICANT WAS NOT ENTITLED TO A JUDICIAL HEARING OF HIS CLAIM OF CITIZENSHIP

The brief of the appellant is devoted largely to the claim that under the Constitution a person seeking entry and claiming citizenship is entitled to a judicial determination of his claim of citizenship. It seems to be settled that the law is otherwise and that where a person who is in legal contemplation without the borders of the United States, seeking entry, makes a claim of citizenship, the Constitution does not entitle him to a judicial hearing on the question of citizenship and the due process clause is satisfied by a fair administrative hearing. *United States* v. *Sing Tuck,* 194 U. S. 161; *United States* v. *Ju Toy,* 198 U. S. 253; *Kwock Jan Fat* v. *White,* 253 U. S. 454; *Ng Fung Ho* v. *White,* 259 U. S. 276.

## II

### THERE WAS EVIDENCE TO SUPPORT THE CONCLUSION OF THE IMMIGRATION OFFICERS

The opinion of the Board of Review contained in the statement of facts points out some discrepancies in the testimony which justified the conclusion that the applicant was not the son of Quon Mee Sing. The most significant item was the testimony of Quon Mee Sing given at a previous entry by him in 1912, which directly contradicted the testimony given in this hearing that he had any son of the age of the applicant. Many other discrepancies in the testimony could be pointed out, but it would serve no purpose to do so. As said by the Board of Review, the record is exceptionally unfavorable to the applicant.

## III

### THE HEARING WAS IN ACCORDANCE WITH THE STATUTES AND RULES AND DID NOT DENY DUE PROCESS.

The statutes and rules do not allow an applicant for admission to have either a friend or an attorney present at the preliminary examinations before inspectors. When the case reaches the Board of Inquiry the applicant is entitled to have a friend or relative present, but not an attorney. The presence of an attorney is allowed before the Board of Review. In the present case the applicant's

alleged father appeared before the Inspector and testified, though he was not present with the applicant. The statement in the alleged bill of exceptions and in the appellant's brief, that after all the evidence had been taken and at the very conclusion of the trial the boy was told of his right to have a relative or friend present, is hardly a fair statement. At the very opening of the hearing before the Board of Inquiry he was advised of this right, and declined to avail of it. It was not necessary to inform him of this right. (*United States* v. *Dunton*, 297 Fed. 447.) His alleged father had appeared and testified the day before and was no doubt in close touch with the proceeding, and there was an attorney, Mr. O'Connell, who was also looking after the matter from the outside and no doubt in touch with the alleged father. It is true that at the hearing before the Board of Inquiry little additional oral testimony than that of the applicant was taken, and the statements of his alleged father and brother and his own earlier statement were introduced as taken down and transcribed, but there is nothing to indicate that the Board would have refused to reexamine these witnesses in person if the request had been made. The hearing was adjourned and counsel asked if he desired to introduce other testimony, and ample opportunity was then given to the applicant's counsel and friends to produce additional testimony before the Board and to ask that the witnesses already sworn, the alleged father and brother, be reexamined be-

fore the Board. No such request was made, but on the contrary the Board was notified by applicant's counsel that he did not desire to introduce any more evidence and wanted the hearings closed for the purpose of an appeal. If the applicant's counsel had thought it necessary for his protection that the alleged father or older brother be present at the Board hearings, it could have been arranged. While the applicant was young, he appeared to be intelligent, had some education, and it is evident his alleged father and his counsel were in close touch with and looking after his interests. No decision is cited by the appellant to support his contention that due process of law requires that at all stages of an administrative hearing the interested party must have the right to be represented by an attorney at law.

## CONCLUSION

The applicant had a fair hearing on the question of fact; there was evidence to support the decision of the immigration authorities adverse to him, and the judgment below should be affirmed.

Respectfully submitted.

WILLIAM D. MITCHELL,
*Solicitor General.*

THEODORE G. RISLEY,
*Solicitor, Department of Labor.*

A. E. REITZEL,
*Assistant Solicitor, Department of Labor.*

DECEMBER, 1926.

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# SUPREME COURT OF THE UNITED STATES.

No. 68.—October Term, 1926.

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| Quon Quon Poy, Appellant, *vs.* John P. Johnson, U. S. Commissioner of Immigration at the Port of Boston, Mass. | Appeal from the District Court of the United States for the District of Massachusetts. |

[February 21, 1927.]

Mr. Justice Sanford delivered the opinion of the Court.

Quon Quon Poy, a Chinese boy fifteen years of age, arrived at the port of Boston in June, 1924, and applied for admission to the United States, claiming to be a foreign-born son of Quon Mee Sing, a native-born citizen—whose citizenship was conceded—and, hence, under R. S. § 1993[1] (U. S. C., Tit. 8, § 6), to be himself a citizen of the United States. After a preliminary investigation by an inspector, his claim was heard, under the provisions of the Immigration Act of 1917[2], by a Board of Special Inquiry, which decided, on the evidence, that he was not shown to be the son of Quon Mee Sing, and should be excluded as a Chinese alien not a member of any of the exempt classes entitled to enter the United States. On an appeal to the Secretary of Labor—this finding having been approved by the Board of Review—the Secretary sus-

[1]By this section—with an exception not here material—all children born out of the limits and jurisdiction of the United States, whose fathers are at the time of their birth citizens thereof, are declared to be citizens of the United States.

[2]This Act provides that any alien, including "any person not a native-born or naturalized citizen of the United States," who may not appear to the examining immigration inspector to be clearly and undoubtedly entitled to land, shall be detained for examination in relation thereto by a board of special inquiry, which shall have authority to determine whether he shall be allowed to land or shall be deported; and that in the event of his rejection by the board of special inquiry he may appeal to the Secretary of Labor, whose decision, where the deportation is ordered, shall be final. Act of February 5, 1917, c. 29, 39 Stat. 874, §§ 1, 16, 17, 19.

tained the decision of the Board of Special Inquiry; and a deportation warrant was issued to the Commissioner of Immigration.

The applicant then presented to the District Court a petition for a writ of habeas corpus, alleging that he was the son of Quon Mee Sing and a citizen of the United States; that he had been denied a fair hearing and opportunity to establish his citizenship by the Department of Labor; that the procedure in the Department by which he had been declared an alien denied him the due process of law to which he was entitled under the Constitution; and that under his claim to citizenship he was entitled to an adjudication by the court as to such procedure and as to his relationship to Quon Mee Sing. The writ was granted. Upon a hearing on the petition and return, in which the record of the Departmental proceedings was introduced, the court, finding that the Departmental decision was conclusive as to the petitioner's citizenship, declined to hear witnesses offered by him for the purpose of independently establishing his citizenship; and entered judgment discharging the writ and remanding the petitioner to the custody of the Commissioner of Immigration. This direct appeal was then allowed under § 238 of the Judicial Code, prior to the Jurisdictional Act of 1925.

1. The contention that the petitioner was denied a fair hearing as to his citizenship by the Department of Labor, cannot be sustained. The record shows that in September the inspector to whom the case was referred in its preliminary stage, separately examined, under oath and at length, the petitioner, and his alleged father and an alleged brother who offered themselves as witnesses. Their examination, which was by question and answer, was taken down and is in the record. It was conducted in an entirely fair and impartial manner. Each of them stated at the conclusion of his examination that he had nothing further to say; and no other witnesses offered themselves or were produced. The petitioner was intelligent, had attended school, and stated that he thoroughly understood the interpreter. At the close of this preliminary investigation the case was immediately referred to the Board of Special Inquiry, consisting of the same inspector, and two others. At the commencement of the hearing before the Board the petitioner was informed of his right to have a relative or friend present, and stated that he did not desire to avail himself of this right and was willing to proceed with the hearing. He was

also informed that the previous testimony given by himself and his alleged father and brother would be made a part of the proceedings before the Board; to which he made no objection. The petitioner was then further examined by the Board. After a postponement for the purpose of obtaining a report as to the physical condition of the petitioner, the Board resumed its hearing, the petitioner being again present; and after consideration of the entire testimony, being of opinion that his relationship to Quon Mee Sing had not been reasonably established, voted to accord him five days in which to submit additional evidence. Notice of this was sent to the attorney representing the petitioner—who had not been present at any of the proceedings—and he replied that the petitioner had no further testimony to offer. The Board then recalled the petitioner for further examination—after which he stated that he had nothing further to say—and again decided that his claimed relationship to Quon Mee Sing had not been reasonably established and that he should be excluded; and informed him of his right to appeal to the Secretary of Labor.

This appeal having been taken, the Board of Review, after hearing the attorney for the petitioner, made a report in which it reviewed the entire testimony, found that the record was "exceptionally unfavorable" to the petitioner, and—after referring to his lack of knowledge of matters which clearly should have been within his memory, his unsatisfactory explanations, the discrepancies between his statements and those of his alleged father and brother, and to a previous statement by his alleged father to the effect that he had no such son—concluded that the petitioner had fallen "far short" of establishing that he was in truth and fact the son of Quon Mee Sing; and accordingly recommended that the exclusion decision be affirmed.

The entire record discloses a painstaking and impartial effort to ascertain the merits of the petitioner's claim. There is no contention here that the decision of the Board of Special Inquiry had no adequate support in the evidence. The arguments made as to the unfairness of the hearing—in so far as they are based upon anything properly appearing in the record before us—relate to the delay in commencing the hearing, the absence of a friend or relative of the petitioner at the hearing, and the introduction before the Board of the testimony previously taken by the single inspector. These are not well taken. Clearly the mere delay in the

commencement of the investigation—although involving the detention of the petitioner—had no bearing upon the fairness of the hearing itself. The argument as to the necessity for the presence of a kinsman or friend of the petitioner at the hearing, is based upon the provision in § 17 of the Immigration Act that while the hearing "shall be separate and apart from the public," the applicant for admission "may have one friend or relative present under such regulations as may be prescribed by the Secretary of Labor." Here, however, the Board, at the outset of the hearing, informed the petitioner of his right to have a relative or friend present; and he expressly waived this right and stated that he was willing to proceed with the hearing. And see *United States* v. *Sing Tuck*, *supra*, 169. The contention that the hearing was invalid because the greater part of the testimony was taken before a single inspector and introduced before the Board, is based upon a provision in the same section of the Act that on an appeal from the Board of Special Inquiry the decision shall be rendered "solely upon the evidence adduced before the Board." There is, however, no suggestion whatever in the Act that the evidence adduced before the Board of Special Inquiry must be taken in its presence. We see no reason to doubt that evidence properly taken before an inspector, § 16,—which has substantially the same effect as a deposition taken in an ordinary case—may not be introduced before the Board and considered by it. See *Kwock Jan Fat* v. *White*, 253 U. S. 454, 458. And here the petitioner offered no objection to the introduction of such testimony, and no application was made to recall the witnesses for re-examination by the Board.

2. It is also contended that as the petitioner claimed the right of admission to the United States as a citizen thereof under R. S. § 1993, the Immigration Act, in vesting in the Board of Special Inquiry the authority to determine the question of his citizenship and making its decision when approved by the Secretary of Labor final, is unconstitutional, in that it deprives him of the right to a judicial hearing to which he is entitled as due process under the Constitution; and that it was therefore the duty of the District Court to proceed, independently of the Departmental decision, to an adjudication as to his citizenship. It is clear, however, in the light of the previous decisions of this Court, that when the petitioner, who had never resided in the United States, presented himself at its border for admission, the

mere fact that he claimed to be a citizen did not entitle him under the Constitution to a judicial hearing; and that unless it appeared that the Departmental officers to whom Congress had entrusted the decision of his claim, had denied him an opportunity to establish his citizenship, at a fair hearing, or acted in some unlawful or improper way or abused their discretion, their finding upon the question of citizenship was conclusive and not subject to review, and it was the duty of the court to dismiss the writ of habeas corpus without proceeding further. *United States* v. *Sing Tuck,* 194 U. S. 161, 168; *United States* v. *Ju Toy,* 198 U. S. 253, 263; *Chin Yow* v. *United States,* 208 U. S. 8, 11; *Tang Tun* v. *Edsell,* 223 U. S. 673, 675; and *Ng Fung Ho* v. *White,* 259 U. S. 276, 282.

3. It is also urged in argument, that, apart from the petitioner's own claim, Quon Mee Sing was independently entitled to maintain the petition for habeas corpus in enforcement of his right to the custody of a minor child, and to obtain to that end an adjudication of his kinship to the petitioner. It suffices to say that no such question is here presented. The petition was filed solely in the right of the petitioner. No right was asserted in behalf of Quon Mee Sing. No such question appears to have been presented in the hearing in the District Court; and none was raised by the assignments of error.

The judgment of the District Court must accordingly be affirmed. But the Court being advised that the appellee, the Commissioner of Immigration, has died since December 10, 1926, the day on which this case was argued and submitted, the judgment here will be entered *nunc pro tunc* as of that day. *Mitchell* v. *Overman,* 103 U. S. 62, 65; *Richardson* v. *Green,* 130 U. S. 104, 116; *Bell* v. *Bell,* 181 U. S. 175, 179; *Cuebas* v. *Cuebas,* 223 U. S. 376, 390.

*Judgment affirmed, nunc pro tunc.*

A true copy.

Test:

*Clerk, Supreme Court, U. S.*